

**Summary Minutes of the  
STATE ENVIRONMENTAL COMMISSION (SEC)**

**Meeting of June 16, 2011, 9:30 AM**

Nevada Division of Wildlife  
1100 Valley Rd., Reno NV

**Members Present:**

E. Jim Gans, Chairman  
Alan Coyner  
Kathryn Landreth  
Jim Barbee  
Pete Anderson  
Mark Turner  
Ken Mayer  
Tom Porta  
Jason King

**Members Absent:**

Stephanne Zimmerman  
Frances Barron

**SEC Staff Present:**

Rose Marie Reynolds, SEC/DAG  
John Walker, Executive Secretary  
Kathy Rebert, Acting Recording Secretary

**BEGIN SUMMARY MINUTES**

The meeting was called to order at 9:30 am by Chairman Gans who noted the hearing was properly noticed and there was a quorum; Chairman Gans then moved to the first agenda item.

**1) Approval of minutes for the December 7, 2010 regulatory hearing - Action Item**

Mr. Turner moved to approve the minutes of the December 7, 2010 hearing as written and Mr. Mayer seconded; motion passed unanimously.

Chairman Gans announced an agenda change with Dr. Colleen Cripps presenting the Administrator's Briefing (**Agenda Item 6**) at this time. This is a **Non-Action** agenda item.

Dr. Cripps began by announcing the NDEP staff changes and management organizational chart which was handed out. Dr. Cripps was appointed permanent Administrator effective in early January 2011. The three newly selected Deputy Administrators were introduced: Mr. Dave Gaskin, Mr. Michael Elges, and Mr. Dave Emme. As a result of the vacancies created by Deputy Administrators' selections and a few other staff changes, 5 new bureau chiefs were selected: Mr. Larry Kennedy, Mr. Rob Bamford, Mr. Al Tinney, Ms. Adele Basham, and Mr. Bruce Holmgren. Other supervisory hires will be made and staff vacancies continue to be filled.

Dr. Cripps also introduced Ms. Jasmine Mehta, the new Deputy Attorney General for NDEP, bringing the AG representation for the Division to four. Lastly, Dr. Cripps thanked Kathy Rebert, who accepted another position in NDEP, for her service to the SEC.

The remainder of Dr. Cripps presentation was as follows:

❖ **Governor's Executive Order #2011-4**

This executive order freezes all proposed regulations until January 1, 2012 and also requires a comprehensive review of all enacted regulations by the end of this year.

Dr. Cripps provided overview on the Order, how NDEP will deal with it, and how it affects the SEC. For the Division's purposes, most of the regulations the Division proposes fall under two of the exemption categories: those that affect public health and those that are necessary to comply with Federal law.

❖ **Legislation from 2011 Session**

Dr. Cripps discussed in brief the bills passed that had an impact on NDEP.

**AB2** - a smog check exemption bill for certain older vehicles. DMV will need to bring regulations to the Commission in order to implement the new statute.

**AB427** - a bottle bill designed to require deposits for beverage containers. The bill was amended as a study of bottle bills and passed.

**SB12** - a bill introduced on behalf of the Division to repeal the Greenhouse Gas reporting requirements. The Federal program adopted by EPA was much more comprehensive and there is now federal mandated reporting required for Greenhouse Gases.

**SB417** - this bill requires the SEC to develop regulations setting standards regarding collection of recyclables and materials at apartment and condominium complexes. Dr. Cripps said the changes needed to implement the bill will be minimal and will probably result in a couple word changes to the current regulations. It is expected the changes will be brought to the next SEC hearing (after approval from the Governor's Office).

**SB493** - created a mining oversight and accountability commission charged with oversight of compliance of Nevada laws that relate to taxation, operations, safety, and environmental regulation of mining operations. NDEP is required to do an annual report on mining reclamation activities, reclamation fees, and the collection of fines and penalties. Also, any regulations adopted by the SEC relating to mining reclamation must be reviewed by that committee before they can become effective.

Dr. Cripps said there were also a few resolutions in which NDEP will get involved. Two of those are related to urging the State to seek compensation for nuclear testing damages at the Nevada Test Site. One other is a resolution to urge Congress to improve and expedite the process at the federal level for mining activities.

## **2) Penalty Assessments for Air Quality Violations - Action Items (A through K)**

Mr. Elges, Deputy Administrator (Bureaus of Air Pollution, Air Quality, and Federal Facilities), spoke to the Commission regarding air penalties and explained how the penalties affect the Air

Program. This was in follow-up to the December 2010 agenda items on clarification of the air penalties process and the penalty matrix. Mr. Elges gave some examples of the effect on the Air Program. The Compliance Monitoring Strategy Plan required and approved by EPA, sets out how NDEP agrees to perform compliance and enforcement duties throughout the state, which include assessment of appropriate penalties, violations, and investigations performed. The plan relies heavily on the Commission's Penalty Matrix, the primary mechanism for determining fair and consistent penalties and proportionality to the degree of non-compliance. EPA monitors to ensure all required air pollution permits and control measures are in effect and are being enforced and that penalties for violations are sufficient and consistent.

Mr. Francisco Vega, Bureau of Air Pollution Control, presented the specific violations and recommended penalties for eleven companies. Because of the large number being presented, just a listing of the company, violation, recommended penalty amount, and Commission vote appears in these minutes. An exception is the fine for Road & Highway Builders (item 2A) which includes summary in brief.

For more detailed information on the violations, see the June 2011 Agenda at: [http://sec.nv.gov/main/hearing\\_611.htm](http://sec.nv.gov/main/hearing_611.htm) To hear the presentation and Commissioner comments or questions, you can listen to the recording of the hearing at: <http://sec.nv.gov/audio611/index.html>

The order of presentation of the violations was changed and appears in these minutes in the order taken at the hearing.

**2J.** Heart of Nature, LLC - Penalty Assessment for Air Quality Violation No. 2315: failure to install and operate required air pollution controls as per Class II Air Quality Operating permit AP1442-2681 (FIN A1116). Recommended penalty \$600.00.

There was no representative from Heart of Nature at the hearing.

**Motion:** Mr. Coyner moved to approve the recommended penalty amount, seconded by Mr. Anderson and passed unanimously.

**2F.** Staker & Parson - Penalty Assessments for Air Quality Violation Nos. 2289 and 2298: failure to operate crushing and screening plant within production limits as per Class II Air Quality Operating Permit AP1442-0017 (FIN A0033), and operating prior to the issuance of a Change of Location Approval (COLA) # 2236. Recommended penalty \$1,600.00.

Mr. Mike Dalley, Environmental Advisor for Staker & Parson, apologized for the violation, thanked NDEP and Mr. Vega for working with the company, and said they agree with the penalty.

**Motion:** Mr. Turner moved to approve the recommended penalty amount, seconded by Mr. Coyner and passed unanimously.

**2D.** American Assay Laboratories - Penalty Assessment for Air Quality Violation No. 2283: failure to apply for and receive a modified air quality operating permit prior to replacing and/or installing additional equipment as per Class III Air Quality Operating Permit AP8734-2232 (FIN A0585). Recommended penalty \$1,600.00.

There was no representative from American Assay at the hearing.

June 16, 2011 - State Environmental Commission Meeting Minutes

**Motion:** Ms. Landreth moved to approve the recommended penalty amount, seconded by Mr. Barbee and passed unanimously.

**2H.** Saga Exploration Co. Barth Iron Mine - Penalty Assessment for Air Quality Violation No. 2296: failure to obtain an air quality permit within specified timeframe. Recommended penalty \$3,200.00.

There were a few concerns expressed by Commissioner's regarding the violation and also a request to explain calculation of penalty. Comments and questions can be heard on the recording referenced above.

There was no representative from Saga Exploration at the hearing.

**Motion:** Mr. Porta moved to approve the recommended penalty amount, seconded by Mr. Anderson and passed by majority. Mr. Coyner abstained.

**2K.** Min-Ad, Inc. - Penalty Assessment for Air Quality Violation No. 2322: failed compliance source test as per Class II Air Quality Operating Permit AP2048-0381 (FIN A0495). Recommended penalty \$3,230.00.

Commissioners discussed with Mr. Vega whether Min-Ad was now in compliance and what type of monitoring would be done for future compliance.

There was no representative from Min-Ad, Inc.

**Motion:** Ms. Landreth moved to approve the recommended penalty amount, seconded by Mr. King and passed unanimously.

**2C.** Paramount NV Asphalt - Penalty Assessment for Air Quality Violation No. 2273: failure to comply with certain requirements for recordkeeping, monitoring, reporting or compliance certification contained in Class II Air Quality Operating Permit AP5032-2054 (FIN A0508). Recommended penalty \$5,400.00.

Mr. David Broderick was in attendance representing Paramount and addressed the Commission, saying going forward there would not be a problem.

**Motion:** Mr. Anderson moved to approve the recommended penalty amount, seconded by Mr. Coyner and passed unanimously.

**2E.** Graymont Western US, Inc. - Penalty Assessment for Air Quality Violation No. 2288: failed compliance source test associated with Class I Air Quality Operating Permit AP3274-1329.01 (FIN A0367). Recommended penalty \$9,900.00.

Mr. Shane Morley, Environmental Safety Manager for Graymont, spoke to the Commission expressing Graymont's sincere appreciation for the cooperation of NDEP in helping resolve the technical issues, especially Mr. Francisco Vega for his assistance and professionalism and Mr. Ryan Clark. Graymont will strive to be in compliance in the future.

**Motion:** Mr. Porta moved to approve the recommended penalty amount, seconded by Mr. Mayer and passed unanimously.

**2I.** Rodeo Creek Gold, Inc. - Penalty Assessment for Air Quality Violation No. 2297: failure to construct or operate a stationary source in accordance with conditions of operating permit P1041-1298-.01 (FIN A0006). Recommended penalty \$11,760.00.

Ms. Teresa Conner, Environmental Manager for Rodeo Creek confirmed Mr. Vega's report of mechanical issues with the control equipment which they strove to correct and going forward there will be a mandatory requirement to check that system. Ms. Conner also said she appreciates NDEP's willingness to work with the company and help them find solutions.

**Motion:** Ms. Landreth moved to approve the recommended penalty amount, seconded by Mr. Turner and passed unanimously.

**2G. Frehner Construction Company - Penalty Assessments for Air Quality Violation Nos. 2292 and 2294:** failure to comply with the opacity limit for emissions from the asphalt plant's drum mixer wet scrubber stack as per Class II Air Quality Operating Permit AP1422-0038 COLA 2218 (FIN A0006). Recommended penalty \$18,720.

Mr. Larry Grosio of Aggregate Industries (who represented Frehner) spoke briefly to the Commission regarding some difficulties of maintaining records at the site.

**Motion:** Mr. King moved to approve the recommended penalty amount, seconded by Ms. Landreth and passed unanimously.

**2B. Wendover Nugget Hotel and Casino - Penalty Assessments for Air Quality Violation Nos. 2265, 2266, 2267, and 2310:** operating without a valid air quality operating permit, failure to monitor and record daily operating records, operating an un-permitted boiler unit, and failure to comply with NDEP Compliance Order 2010-16. Recommended penalty \$19,400.

Mr. Mauricio Cuellar, the General Manager for Wendover, gave a brief explanation of the process of completing the application and submitting it. They feel the fine is harsh, there were no emissions violations or pollution; there was just bad communication with Mr. Vega. There is a new Chief Engineer and operational changes, including improvements to communications, have been made. Chairman Gans pointed out that it took more than two years to take care of this violation.

**Motion:** Mr. Coyner moved to approve the recommended penalty, Mr. Anderson seconded and the motion passed unanimously.

Commissioner Landreth left the meeting at this time. There were 8 commissioners remaining which still constituted a quorum.

**2A. Road and Highway Builders, LLC - Penalty Assessments for Air Quality Violation Nos. 2259, 2260, 2261, and 2272:** failure to control fugitive dust, failure to comply with permitted emission limits, failure to comply with permitted operation limits on 16 different days, and failure to operate required emission controls (wet dust suppression). Recommended penalty \$94,800.

A lengthy discussion followed on this penalty assessment with a number of questions from the Commissioners. Mr. Mayer asked for further explanation on the thought process in arriving at the percentage assessed between the 30% and 300%. Mr. Vega explained the two instances, operating

without controls and exceeding operational limitations were adjusted by 300% because they were the exact same violations within the last 12 months. The penalty table provides the percentages to be assessed based on the span of length of time for repeat violations. Mr. Turner asked if the offenders were warned that there would be substantial or severe penalties for violations occurring within a certain timeframe after the first violation. Mr. Vega answered that it is explained to violators at the enforcement conference and that staff goes over the penalty table with the violators.

Mr. Elges explained that after the first violation and continued assurances to NDEP the violations would not happen again, they did. Mr. Elges' opinion was the multipliers were built into the penalty table for this specific reason. Chairman Gans stated that the Penalty Matrix was made for these type repeat violations and that although the penalty is higher than those the Commission usually sees, the Matrix allows for even higher penalties.

Mr. Glen Fichardt, Vice President with Road and Highway Builders, presented information he hoped the Commission would take into account when determining the penalty to be assessed. Saying while the company understood they weren't in total compliance of their permitting requirements, they did not understand that if the company had information to provide, it should have been done at the enforcement proceedings. He said NDEP definitely has the company's attention and they are doing things differently and will continue to in the future. Mr. Fichardt briefly mentioned some of the changes that have been made.

Mr. John Portman, Operations Manager, Road and Highway Builders, provided background and history of what happened and what the company is subsequently doing. Commissioners asked questions on company operation policy with attention to permit requirements and site wind conditions.

Mr. Fichardt requested that after cooperating with NDEP and working with Mr. Vega to understand the procedures better, the Commission waive the repeat offense markup. Mr. Fichardt then asked that violation #2272: exceeding permitted operational limits, be addressed by the crushing subcontractor.

Mr. Charles Olson, Manager for Rees's Enterprises, subcontractor, attempted to provide documents to the Commission which Chairman Gans disallowed saying it had not been presented to staff and once the penalty phase has reached the Commission, no new data is allowed; the time for this data was at the enforcement conference or through the Commission's appeal process. Mr. Olson said Rees's never exceeded the permit limitations; it was his understanding that the limitation was 750 tons an hour, not the 10 hours. Mr. Olson said he was not invited to the enforcement conference to discuss the alleged crushing limitation. He said his advice to Road and Highway was to appeal the violation. Mr. Olson also stated that Rees's takes permit requirements very seriously and has not had a fine in over 20+ years of operation.

Mr. Fichardt stated that an appeal was lodged so the company could provide information but that NDEP has a policy where they will not process any permits while there is a pending appeal. The company has other contracts with the State of Nevada and there are time limits, therefore not getting a permit would prevent the company from executing their contractual obligations with the

State of Nevada. So the appeal was rescinded with the understanding they could present some information at the hearing.

Discussion continued with several other questions to staff for clarification purposes on the penalties assessed and permitting policy.

Mr. Elges explained it is not standard procedure for NDEP to hold up issuance of a permit pending an appeal however in this instance, given the significant degree of non-compliance, NDEP used their discretion to hold up issuance of any addition permits until the issue was settled.

Mr. Turner stated he did not support the multiplier factor portion of the fine of \$94,000.

**Motion:** Mr. Barbee moved to support the proposed reduction of \$40,000 to the fine. The motion was seconded by Mr. Turner.

Discussion: Mr. Porta asked if the reason for the reduction was due to possible duplication of penalty to which Mr. Turner replied "Yes". Mr. Coyner said he has a concern that the subcontractor would suffer for the multiplier effect that really belongs to Road and Highway Builders.

**VOTE on Motion:** The vote passed by a majority of 5-3. Aye: Turner, Barbee, Mayer, Anderson, Coyner. Nay: Gans, King, Porta. Penalty assessed was \$54,800.

After a lunch break, Chairman Gans reconvened the hearing. At this time new Commissioner Mr. Jim Barbee, Director of the Department of Agriculture was introduced. Mr. Barbee, who had been in attendance from the beginning of the hearing, provided a brief of his background.

### **Air Quality Planning/Air Pollution Control**

#### **3) T008-11: Air Pollution Control New Class IV (Area Source) Permitting Program; Class II Certification Requirements - Action Item**

Mr. Elges distributed to Commissioners **Exhibit 1: T008-11**, a revised copy of the regulation as presented in the Commission hearing packets. See **ATTACHMENT 1** for the document. Mr. Elges provided an overview of the proposed regulation and public meetings held for the creation of a new Class IV permitting program designed to address several new federal area source permitting requirements. He then answered some questions for Commissioners.

Public comments: Mr. Peter Krueger, representing Nevada Petroleum Marketers Association, commented on gallon throughput and also informed the Commission that the Association is working with the Division on operating training, which is another EPA requirement.

**Motion:** Mr. Turner moved to approve Exhibit 1: T008-11, Mr. Mayer seconded and the motion was passed unanimously.

#### **4) T009-11: Air Pollution Control Adopt by Reference; Greenhouse Gas Permitting - Action Item**

Mr. Elges also distributed to Commissioners **Exhibit 1: T009-11**, a revised copy of the regulation as presented in the Commission hearing packets. See **ATTACHMENT 2** for the document. Mr. Elges gave an overview of this proposed regulation and workshop date/location information. The proposal is for an addition of one new source category for industrial commercial and institutional broilers and process heaters.

Public comments: Mr. Dan Galpern, representing the Sierra Club, questioned why NDEP is adopting the federal rule which includes exemption of several greenhouse gas emitters. Federal regulations allow states to do more and he encouraged NDEP to do more than the minimum. Mr. Elges responded that he is not in a position to establish policy for the state, the focus today is to incorporate federal policy accordingly.

There was discussion about being more aggressive in establishing regulations to comply with federal laws.

Dr. Cripps commented on going beyond the federal program; she said there are a couple other reasons why NDEP didn't propose more than the federal program. There is currently litigation relating to EPA's program and NDEP is concerned about going beyond that program in case there are court decisions that would affect it. In addition, there are resource issues with implementation of a more stringent standard. Part of the reason this proposal was approved by the Governor was with the understanding that either NDEP or EPA does it. If more is done, it will be looked at as new fees and new costs to both the Division and businesses affected and she wasn't sure that would be approved with the "no new taxes/no new fees" policy of the current [State] administration.

Mr. Tom Woodworth of NV Energy said they are aware of the rulemaking, have followed it, have no problem with it (other than the broader, national debate) and understand what NDEP is doing. NDEP has the support of NV Energy.

**Motion:** Mr. Porta moved to accept Exhibit 1: T009-11, seconded by Mr. Barbee, motion passed unanimously.

#### **Public Petition by Kids vs. Global Warming**

#### **5) Petition to Limit Fossil Fuel Carbon Dioxide Emissions - Action Item**

The presentation and subsequent discussion of this agenda item is summarized in these minutes. For the audio of the full presentation and comments, go to agenda # 5 at: [http://sec.nv.gov/main/hearing\\_611.htm](http://sec.nv.gov/main/hearing_611.htm)

Mr. Galpern, attorney with the Western Environmental Law Firm, represented the petitioner. Mr. Galpern gave a background of Kids vs. Global Warming and the founder Alex Loorz as well as the group Our Children's Trust who is assisting in the petition. Our Children's Trust submitted printed

copies of a power point presentation The Future of Our Children and Mr. Galpern asked that it be made a part of the record for this presentation. A copy of that document can be found at **ATTACHMENT 3**.

The petition asks to undertake a rulemaking process to craft and adopt a plan to reduce greenhouse gas (GHG) emissions in Nevada. It proposed adoption of a plan to limit and regulate fossil fuel carbon dioxide emissions in Nevada. That plan needs to be sufficient to meet the goals of sustainability and to preserve the public trust. Mr. Galpern provided remarks and references regarding possible negative consequences if there is failure to reduce greenhouse gas emissions as well as comments on the relative responsibility of the NDEP. Again, Mr. Galpern's oral statement is available at: [http://sec.nv.gov/main/hearing\\_611.htm](http://sec.nv.gov/main/hearing_611.htm) see agenda #5.

#### Public Comment:

Mr. Krueger on behalf of the Nevada Petroleum Marketers Association said that the petitioner was unable to provide cost or financial implications to society and those numbers need to be known before adoption of such a regulation. Also the federal government is actively involved in addressing GHG emissions and the SEC just adopted a regulation dealing with those federal regulations. Mr. Krueger said the Association urges the Commission to take no action at this time.

Mr. Doug Busselman, Executive Vice President of Nevada Farm Bureau, urged the Commission to deny the proposed petition and the idea of pursuing a regulation of this type within Nevada. There is nothing from their point of view that establishes a scientific basis for further regulatory imposition. The Nevada Farm Bureau urged the Commission to reject this petition and move forward with legitimate activities such as the prior action taken (in this meeting).

Mr. Allen Biaggi, representing the Nevada Mining Association, said that while reduction of GHGs is a laudable goal, there are a number of avenues where this petition fails. Mr. Biaggi said first, he doesn't believe the Commission nor the NDEP has the statutory authority to undertake the development of GHG controls as envisioned by the petition. Such major policy decisions are reserved for the Nevada Legislature. Second, the petitioners are using the Public Trust Doctrine as the basis for GHG reductions in Nevada. The Public Trust Doctrine has been primarily used in Nevada related to water quality and the relationship of public lands, and not with air quality. Furthermore, the Public Trust Doctrine has not been litigated to any significant degree or defined by the courts. The petitioners are asking the SEC to move forward with regulatory rulemaking using obscure and relatively undefined common law. Third, the public petition submitted by Kids vs. Global Warming is lacking in the specificity and detail for this body to make a decision as to the impacts of the regulations. Similarly, the costs are not provided for the NDEP to implement this program and the State is in a very delicate state right now (financially). Finally, the petitioner fails to identify overlapping State requirements. Mr. Biaggi concluded saying it is important to recognize Nevada has acknowledged its need to address climate change and referenced the Nevada Climate Change Advisory Committee and provided information on the work and determinations by that Committee. Mr. Biaggi concluded by saying the petition before the Commission today is an attempt to fit Nevada into a regulatory box with 49 other states, with a policy that is ill-defined, ground in questionable legal basis, inconsistent with Nevada's unique demographics, natural environment and economy and unworkable for our state.

Mr. Woodworth, NV Energy, said Mr. Biaggi's statement was also his opinion on the petition. Mr. Woodworth said NV Energy respectfully submitted the petition be dismissed without further proceedings. The reasoning is that there is a lack of legal authority and that statutory authority does not exist in this case.

Mr. Ray Bacon, Executive Director, Nevada Manufacturers Association informed the Commission they had filed a written comment on the petition. (That letter may be found at): [http://sec.nv.gov/main/hearing\\_611.htm](http://sec.nv.gov/main/hearing_611.htm) Mr. Bacon said he wanted to add a couple points to what Mr. Biaggi had said. The petition doesn't mention water vapor and he believes water vapor is a large part of the climate change issue. Second, he doesn't think one could fundamentally change the chemistry of carbon to remove carbon from the planet.

Chairman Gans called staff to the podium to obtain their view on the petition and comments on the petition.

Mr. Elges spoke first saying without being repetitious, there is nothing he can add. NDEP invested a lot of time looking at the petition and there are deficiencies in the petition that would have to be resolved assuming there were a rulemaking process. The costs would have to be identified and dealt with as well as compliance with the Governor's new Executive Orders. He believes NDEP has been pretty successful in the work that has been done statewide because this issue has been approached more cautiously. Mr. Elges' advice was to proceed cautiously.

Mr. Porta asked Mr. Elges if he would agree that at some point when lawsuits regarding GHG are settled, there would be federal actions from EPA mandating what states must do to address the reduction of GHG. He noted that moving ahead of that action could potentially delay more stringent requirements that would come down from EPA. Mr. Elges answered that he was in concurrence.

Mr. Galpern addressed some of the public comments. He said the duty under the Public Trust Doctrine is well established and cited some court cases. He said that under a statute in 445B (he did not have the exact number); authority is granted to the SEC to take actions necessary to realize the full benefits of the federal Clean Air Act which allows states to go further than the federal rules. He noted that in the absence of true federal leadership in this area, there is every reason for states to continue and to accelerate their efforts in this area and that is what the petition is asking the Commission to do.

Several Commissioners had a discussion with Mr. Galpern about CO2 emissions and commented on Nevada being a leader in natural resources of energy resources and is doing its part in forward progress of limiting emissions.

Deputy Attorney General for NDEP Ms. Jasmine Mehta responded to the comments made on the Public Trust Doctrine which she spent time reviewing. She wanted to be clear that the cases cited by Mr. Galpern and almost all of the cases in the entire United States have limited the application of the Public Trust Doctrine to navigable waters and the soils underneath those waters. She noted that it has not been expanded to air and this would be an unprecedented application of the Public Trust Doctrine if the Commission were to go down that path. The other point Ms. Mehta wanted to make about the Public Trust Doctrine is that it is a judicial tool; it is a limitation on the Legislature's ability to convey away navigable waters and the soils underneath those waters. It has only been used by the judiciary; it is not a source of the state's police power which enables the state to enact laws for the health and safety and welfare of its citizens. It is not an enabling authority for the Commission to enact the rules as set forth in the petition.

Deputy Attorney General for the SEC Ms. Rose Marie Reynolds clarified for the record that what the Commission will be acting upon is pursuant to NRS 233B.100 which states that upon submission of a petition to adopt regulations the agency shall either deny the petition in writing within 30 days or initiate regulation making proceedings. Ms. Reynolds said that the Commission must include "reasons" in making a motion on the petition.

Mr. Porta said in his opinion one of the most important reasons to deny is the missing aspect of the cost, lacking specificity to Nevada and Nevada industries.

Chairman Gans agreed with Mr. Porta's statement and said also that his concern is there would be limitation by the Governor's Executive Order referenced by Dr. Cripps earlier.

Mr. Barbee pointed out that staff has said the Division would be getting ahead of federal proceedings which could cause difficulty in dealing with those issues down the road.

Mr. Anderson said he thinks the petition lacks the science to support its conclusions or recommendations and to consider such a petition; the scientific proof should be specific to Nevada.

**Motion:** Mr. Coyner moved to deny the petition on the basis of the aforementioned reasons. The motion was seconded by Mr. Barbee and the motion passed unanimously to DENY the petition.

**6) Administrator's Briefing to the Commission: Non-Action Item**

Dr. Cripps presented her briefing at the beginning of the hearing between Agenda Items 1 and 2.

**7) Public Comment: Non-Action Item**

No comments.

Chairman Gans confirmed with Mr. Walker that the next meeting date will be October 5, 2011.

Meeting was adjourned

## ATTACHMENTS

- ATTACHMENT 1: Exhibit 1: T008-11 Air Pollution Control New Class IV (Area Source) Permitting Program; Class II Certification Requirements
- ATTACHMENT 2: Exhibit 1: T009-11 Air Pollution Control Adopt by Reference; Greenhouse Gas Permitting
- ATTACHMENT 3: Power Point: The Future of Our Children

# ATTACHMENT 1

Exhibit 1: T008-11 Air Pollution Control New Class IV (Area Source) Permitting Program; Class II Certification Requirements

**PROPOSED TEMPORARY REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION**

**P2011-02**

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted. Matter in *green* was revised pursuant to the public workshops June 1 and 3, 2011: matter in green underline is new; matter in ~~green-strikeout~~ is material to be omitted.

AUTHORITY: NRS 445B.210 and 445B.300

A REGULATION relating to air pollution; establishes the Class IV Operating Permit Program to require an operating permit and compliance with federal requirements for each area source of a hazardous air pollutant; and providing other matters properly relating thereto.

**Section 1.** Chapter 445B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8 inclusive, of this regulation.

~~—Sec. 2. “Area source” means a stationary source that does not emit or have the potential to emit more than 10 tons per year of a single toxic air pollutant or more than 25 tons per year of any combination of toxic air pollutants.~~

**Sec. 3.** “Class IV source” means a stationary source which is subject to the requirements set forth in sections 2 to 17, inclusive, of this regulation, and:

1. Which is not located at or a part of another stationary source.
2. Which is not otherwise subject to Class I, Class II or Class III permitting requirements.
3. Which is not subject to the requirements of 40 C.F.R. Part 60.

**Sec. 4.** *The following area sources are subject to the provisions of sections 2 to 17, inclusive, of this regulation.*

<i>Area Source Category</i>	<i>40 C.F.R. Part 63 Subpart</i>
<i>Aluminum, copper, and other nonferrous foundries.....</i>	<i>ZZZZZZ</i>
<i>Asphalt processing and asphalt roofing manufacturing.....</i>	<i>AAAAAAA</i>
<i>Chemical manufacturing.....</i>	<i>VVVVVV</i>
<i>Chemical preparations industry.....</i>	<i>BBBBBBB</i>
<i>Chromium emissions from hard and decorative chromium electroplating and anodizing tanks.....</i>	<i>N</i>
<i>Clay ceramics manufacturing.....</i>	<i>RRRRRR</i>
<i>Dry cleaning facilities, perchloroethylene air emission standards.....</i>	<i>M</i>
<i>Gasoline dispensing facilities.....</i>	<i>CCCCC</i>
<i>Gasoline distribution bulk terminals, bulk plants, and pipeline facilities.....</i>	<i>BBBBBB</i>
<i>Glass manufacturing.....</i>	<i>SSSSSS</i>
<i>Industrial, commercial, and institutional boilers.....</i>	<i>JJJJJJ</i>
<i>Nine metal fabrication and finishing source categories.....</i>	<i>XXXXXX</i>
<i>Paints and allied products manufacturing.....</i>	<i>CCCCCCC</i>

<i>Area Source Category</i>	<i>40 C.F.R. Part 63 Subpart</i>
<i>Paint stripping and miscellaneous surface coating operations.....</i>	<i>HHHHHH</i>
<i>Plating and polishing operations.....</i>	<i>WWWWWW</i>
<i>Secondary nonferrous metals processing.....</i>	<i>TTTTTT</i>
<i>Stationary reciprocating internal combustion engines.....</i>	<i>ZZZZ</i>

**Sec. 5.** [Application general requirements/contents]

*1. For an area source subject to 40 C.F.R. Part 63, as adopted by reference in NAC 445B.221, whose owner or operator commenced construction or reconstruction before [insert the effective date of this regulation], if the owner or operator of the area source has not been issued a valid operating permit, the owner or operator must file an application and obtain a Class IV operating permit.*

*2. The owner or operator of an area source subject to 40 C.F.R. Part 63, as adopted by reference in NAC 445B.221, that proposes to commence construction after [insert the effective date of this regulation] must file an application and obtain a Class IV operating permit before commencing construction.*

*3. An applicant for a Class IV operating permit must submit a complete application with the appropriate fee to the Director on the appropriate form provided by the Director. A complete application for a Class IV operating permit must include:*

*(a) Information to identify the applicant, including the name and address of the company or the name and address of the plant if different from that of the company, the name of the owner of the company and his agent, and the name and telephone number of the manager of the plant or another appropriate person to contact.*

*(b) Sufficient information to determine the suitability of the Class IV Operating Permit for the stationary source.*

*(c) The location of any records that the applicant must keep pursuant to the requirements of the operating permit, if the records are kept at a location other than the emitting facility.*

*(d) Other specific information that the Director determines is necessary to carry out, enforce and determine the applicability of all legal requirements.*

*4. A responsible official of the stationary source must certify that, based on information and belief formed after a reasonable inquiry, the statements in the application for the operating permit are true, accurate and complete.*

**Sec. 6.** [Permit contents]

*In addition to the information required pursuant to NAC 445B.315, a Class IV operating permit must contain any other requirements deemed necessary by the Director.*

**Sec. 7.** [Action by Director on application]

*Except as otherwise provided in NAC 445B.319 and 445B.342, within 10 working days after the date of receipt of an application for a Class IV operating permit or revision of a Class IV operating permit, the Director shall determine if the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 10 working days after the date on which*

*the Director receives the application, the official date of submittal of the application is the date on which the Director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier. Within 30 working days after the official date of submittal, the Director shall issue or deny a Class IV operating permit.*

**Sec. 8.** [Reporting requirements]

*The holder of a Class IV operating permit shall submit any reports required in NAC 445B.001 to 445B.3689, inclusive, and sections 5 to 17, inclusive, of this regulation and any other reports deemed necessary by the Director to the Director in accordance with the reporting provisions stipulated in the applicable sections of 40 C.F.R. Part 63, as adopted by reference in NAC 445B.221.*

**Sec. 9.** NAC 445B.001 is hereby amended to read as follows:

445B.001 As used in NAC 445B.001 to 445B.3689, inclusive, *and sections 4 to 17, inclusive, of this regulation* unless the context otherwise requires, the words and terms defined in NAC 445B.002 to 445B.211, inclusive, *and sections 2 to 17, inclusive, of this regulation* have the meanings ascribed to them in those sections.

**Sec. 10.** NAC 445B.038 is hereby amended to read as follows:

445B.038 “Class III source” means a stationary source which is subject to the requirements set forth in NAC 445B.001 to 445B.3689 inclusive, and:

1. Which emits or has the potential to emit, individually or in combination, a total of not more than 5 tons per year of PM<sub>10</sub>, NO<sub>x</sub>, SO<sub>2</sub>, VOC and H<sub>2</sub>S;
2. Which emits less than 1,000 pounds of lead per year;
3. Which is not subject to the requirements of 42 U.S.C. §§ 7661 to 7661f, inclusive;
4. Which does not exceed 750 horsepower and is not subject to the requirements of 40 C.F.R. Part 60, except for:
  - (a) A stationary compression ignition internal combustion engine subject to Subpart IIII; or
  - (b) A stationary spark ignition internal combustion engine subject to Subpart JJJJ;
5. Which is not subject to the requirements of 40 C.F.R. Part 61;
6. Which is not subject to the requirements of 40 C.F.R. Part 63, except for a stationary reciprocating internal combustion engine subject to Subpart ZZZZ and which does not exceed 750 horsepower;
  7. Which is not a temporary source;
  8. Which is not located at or a part of another stationary source;
  9. Which does not operate a thermal unit that emits mercury, as defined in NAC 445B.3643;
- and
10. Whose owner or operator:
  - (a) Is not seeking a limitation on emissions to avoid the requirements of 40 C.F.R. Part 63;
  - ~~(b)~~
  - (b) Is not required to obtain an operating permit to operate the stationary source solely to comply with NAC 445B.22037 relating to surface area disturbances ~~(b)~~; *or*
  - (c) Is not required to obtain a Class IV operating permit to operate the stationary source solely to comply with sections 4 to 17, inclusive, of this regulation.*

**Sec. 11.** NAC 445B.123 is hereby amended to read as follows:

445B.123 “Operating permit” has the meaning ascribed to it in NRS 445B.145. Unless otherwise specifically stated, the term includes:

1. A Class I, a Class II, ~~and~~ a Class III *and a Class IV* operating permit;
2. An operating permit to construct; and
3. A mercury operating permit to construct, as defined in NAC 445B.3625.

**Sec. 12.** NAC 445B.221 is hereby amended to read as follows:

445B.221 1. Title 40 C.F.R. §§ 51.100(s), 51.100(nn) and 51.301 and Appendix S of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, 2009.

2. Title 40 C.F.R. § 51.165 is hereby adopted by reference as it existed on July 1, 2002.

3. Appendices M and W of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, 2009.

4. Title 40 C.F.R. § 52.21 is hereby adopted by reference as it existed on July 1, 2009.

5. The following subparts of 40 C.F.R. Part 60 are hereby adopted by reference:

(a) Subpart A, except §§ 60.4, 60.8(b) (2), 60.8(b) (3) and 60.11(e), as it existed on July 1, 2009;

(b) Section 60.21 of Subpart B, as it existed on July 1, 2006;

(c) Subparts C, Cb, Cc, Cd, Ce, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, CCCC, DDDD, EEEE, FFFF, IIII, JJJJ and KKKK as they existed on July 1, 2009; and

(d) Subpart HHHH, except §§ 60.4105(b)(2), 60.4106, 60.4120 to 60.4142, inclusive, 60.4153(a) and (b) and 60.4176, as set forth in Volume 70 of the Federal Register at pages 28606 et seq., May 18, 2005, and the amendments to Subpart HHHH as set forth in Volume 71 of the Federal Register at pages 33388 et seq., June 9, 2006.

6. Appendices A, B and F of 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, 2009.

7. Subparts A, C, D, E, F, H, I, J, K, L, N, O, P, Q, R, T, V, W, Y, BB and FF of 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, 2009.

8. Appendix B of 40 C.F.R. Part 61 is hereby adopted by reference as it existed on July 1, 2009.

9. ~~[Subparts]~~ *Except as otherwise provided in subsection 10, the following subparts of Title 40 C.F.R. Part 63 are hereby adopted by reference:*

(a) A, B, C, F, G, H, I, J, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, LL, MM, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, JJJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, SSSSS, WWWW, YYYYY, ZZZZ, **BBBBBB, CCCCCC, DDDDDD, EEEEE, FFFFFF, GGGGGG, HHHHHH, LLLLLL, MMMMMM, NNNNNN, OOOOOO, PPPPPP, QQQQQQ, RRRRRR, SSSSSS, ~~and~~ TTTTTT, VVVVVV, WWWW, XXXXXX, ZZZZZ, AAAAAA, BBBBBB and CCCCCC [of 40 C.F.R. Part 63 are hereby adopted by reference] as they existed on ~~[July 1, 2009.]~~ *July 1, 2010;***

*(b) Subpart JJJJJJ as set forth in Volume 76 of the Federal Register at pages 15554, et seq., March 21, 2011; and*

*(c) Subpart EEEEEEE as set forth in Volume 76 of the Federal Register at pages 9450, et seq., February 17, 2011.*

10. *The amendments to:*

*(a) Subpart ZZZZ of Title 40 C.F.R. Part 63, as set forth in:*

*(1) Volume 75 of the Federal Register at pages 51570, et seq., August 20, 2010; and*

*(2) Volume 76 of the Federal Register at pages 12863, et seq., March 9, 2011; and*

*(b) Subparts BBBBBB and CCCCCC of Title 40 C.F.R. Part 63 as set forth in Volume 76 of the Federal Register at pages 4156, et seq., January 24, 2011,*

*↪ are hereby adopted by reference.*

**11.** Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, 2009. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.3689, inclusive, the provisions of 40 C.F.R. Part 72 apply.

~~[11]~~ **12.** Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, 2009. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.3689 inclusive, the provisions of 40 C.F.R. Part 76 apply.

~~[12]~~ **13.** Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, is hereby adopted by reference as it existed on October 1, 1993.

~~[13]~~ **14.** The Standard Industrial Classification Manual, 1987 edition, published by the United States Office of Management and Budget, is hereby adopted by reference. A copy of the manual may be obtained, free of charge, from the United States Department of Labor at the Internet address <http://www.dol.gov>.

~~[14]~~ **15.** A copy of the publications which contain the provisions adopted by reference in subsections 1 to ~~[12]~~ **13**, inclusive, may be obtained from the:

(a) Division of State Library and Archives of the Department of Cultural Affairs for 10 cents per page.

(b) Government Printing Office, free of charge, at the Internet address: <http://www.gpoaccess.gov/nara/index.html>.

~~[15]~~ **16.** The following standards of ASTM International are hereby adopted by reference:

(a) ASTM D5504, “Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Chemiluminescence,” set forth in Volume 05.06 of the 2008 Annual Book of ASTM Standards. A copy of ASTM D5504 is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania, 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$37.

(b) ASTM D2234 and D2234M, “Standard Practice for Collection of a Gross Sample of Coal,” set forth in Volume 05.06 of the 2008 Annual Book of ASTM Standards. A copy of ASTM D2234 and D2234M is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania, 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$37.

(c) ASTM D2013, “Standard Practice for Preparing Coal Samples for Analysis,” set forth in Volume 05.06 of the 2008 Annual Book of ASTM Standards. A copy of ASTM D2013 is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania, 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$43.

(d) ASTM D6784, “Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario HydroMethod),” set forth in Volume 11.07 of the 2008 Annual Book of ASTM Standards. A copy of ASTM D6784 is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania, 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$43.

(e) ASTM D2015, “Standard Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter,” dated April 10, 2000. A copy of ASTM D2015 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/S A110B, Englewood, Colorado, 80112, or at the Internet address <http://global.ihs.com>, for the price of \$52.

(f) ASTM D3286, “Standard Test Method for Gross Calorific Value of Coal and Coke by the Isoperibol Bomb Calorimeter,” dated July 10, 1996. A copy of ASTM D3286 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/S A110B, Englewood, Colorado, 80112, or at the Internet address <http://global.ihs.com>, for the price of \$52.

(g) ASTM D1989, “Standard Test Method for Gross Calorific Value of Coal and Coke by Microprocessor Controlled Isoperibol Calorimeters,” dated July 10, 1997. A copy of ASTM D1989 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/SA110B, Englewood, Colorado, 80112, or at the Internet address <http://global.ihs.com>, for the price of \$52.

~~16~~ 17. For the purposes of the provisions of 40 C.F.R. Parts 60, 61 and 63, adopted by reference pursuant to this section, the Director may not approve alternate or equivalent test methods or alternative standards or work practices.

~~17~~ 18. Except as otherwise provided in subsections ~~10 and 11~~ 11 and 12, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.3689 inclusive, for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

~~18~~ 19. For the purposes of this section, “administrator” as used in the provisions of 40 C.F.R. Part 60, except Subpart B § 60.21 and Subpart HHHH §§ 60.4101 to 60.4105, inclusive, 60.4107 to 60.4114, inclusive, 60.4151 to 60.4173, inclusive, and 60.4175, and Parts 61 and 63, adopted by reference pursuant to this section, means the Director.

**Sec. 13.** NAC 445B.287 is hereby amended to read as follows:

445B.287 1. Except as otherwise provided in subsection 2 and in NAC 445B.288, an operating permit, operating permit to construct or permit to construct is required for each stationary source and:

(a) If a stationary source is a Class I source:

(1) A revision of the operating permit or the permit to construct is required pursuant to the requirements of NAC 445B.3425, 445B.344 or 445B.3441 before the stationary source may be modified; or

(2) A revision of the operating permit to construct is required pursuant to the requirements of paragraph (a) of subsection 1 of NAC 445B.3361 before the stationary source may be modified,

↪ as appropriate.

(b) If a stationary source is a Class II source, a revision of the operating permit or the permit to construct is required pursuant to the requirements of NAC 445B.3465 before the stationary source may be modified.

(c) If a stationary source is a Class III source, a revision of the operating permit is required pursuant to the requirements of NAC 445B.3493 before the stationary source may be modified.

(d) If a stationary source maintains one or more thermal units that emit mercury, the owner or operator of a thermal unit that emits mercury shall comply with the provisions set forth in NAC 445B.3611 to 445B.3689, inclusive.

2. A Class I source is not subject to the provisions of subparagraph (1) of paragraph (a) of subsection 1 if the source is not a major source, an affected source or a solid waste incineration unit required to obtain a permit pursuant to 42 U.S.C. § 7429(e). For a Class I source which is not a major source and which subsequently becomes subject to a standard or other requirement under 42 U.S.C. § 7411 or 7412, the Administrator will determine whether to exempt the source from the requirement to obtain a Class I operating permit at the time that the new standard is adopted.

*3. The owner or operator of a stationary source may apply for and obtain only one Class IV operating permit for a stationary source. If an owner or operator of a stationary source is subject to more than one area source requirement or standard set forth in 40 C.F.R. Part 63, as adopted by reference in NAC 445B.221, the owner or operator must apply for and obtain a Class I, ~~or~~ Class II or Class III operating permit, as appropriate.*

~~[3.]~~ 4. An operating permit, operating permit to construct or permit to construct may not be transferred from one owner or piece of equipment to another. An owner or operator may apply for an administrative amendment reflecting a change of ownership or the name of the stationary source for the effective time remaining on the original operating permit pursuant to NAC 445B.319.

~~[4.]~~ 5. As used in this section:

(a) “Permit to construct” means a document issued and signed by the Director before November 1, 1995, certifying that:

(1) Adequate empirical data for a stationary source has been received and constitutes approval of location; or

(2) All portions of NAC 445B.305 to 445B.314, inclusive, and 445B.3395, and any other provisions of NAC 445B.001 to 445B.3689, inclusive, have been complied with and constitute approval of location and for construction.

(b) “Thermal unit that emits mercury” has the meaning ascribed to it in NAC 445B.3643.

**Sec. 14.** NAC 445B.295 is hereby amended to read as follows:

NAC 445B.295 Except as otherwise provided in NAC 445B.33637 *and section 5 of this regulation*, an application for an operating permit must include:

1. Information to identify the applicant, including the name and address of the company or the name and address of the plant if different from that of the company, the name of the owner of the company and his agent, and the name and telephone number of the manager of the plant or another appropriate person to contact;

2. A description of the stationary source’s processes and products by Standard Industrial Classification Code, including any processes and products associated with an alternative operating scenario identified by the owner or operator;

3. A description of the fuels, fuel use and raw materials to be used and the rates of production and operating schedules for each emission unit which is a part of the stationary source;

4. An identification and a description of any equipment for the control of air pollution and any devices or activities for monitoring compliance with emission limitations;

5. Limitations on the operation of the stationary source or any standards for work practices which affect emissions for all regulated air pollutants at the stationary source;
6. An explanation of any proposed exemption from any applicable requirement;
7. The location of any records that the applicant must keep pursuant to the requirements of the operating permit, if the records are kept at a location other than the emitting facility; and
8. Other specific information that the Director determines is necessary to carry out, enforce and determine the applicability of all legal requirements.

**Sec. 15.** NAC 445B.308 is hereby amended to read as follows:

445B.308 1. ~~[H]~~ *Except for any Class IV operating permit, in* any area designated as attainment or unclassifiable for a regulated air pollutant, before an operating permit or a revision of an operating permit may be issued:

- (a) For a new or modified stationary source;
  - (b) For a plantwide applicability limitation; or
  - (c) To allow a plantwide applicability limitation to expire and not be renewed,
- ↳ in accordance with NAC 445B.308 to 445B.314, inclusive, the applicant must submit to the Director an environmental evaluation and any other information the Director determines is necessary to make an independent air quality impact assessment.

2. The Director shall not issue an operating permit or a revision of an operating permit for any stationary source if the environmental evaluation submitted by the applicant shows, or if the Director determines, in accordance with the provisions of this section, that the stationary source:

- (a) Will prevent the attainment and maintenance of the state or national ambient air quality standards. For the purposes of this paragraph, only those ambient air quality standards that have been established in NAC 445B.22097 need to be considered in the environmental evaluation.
- (b) Will cause a violation of the applicable state implementation plan.
- (c) Will cause a violation of any applicable requirement.
- (d) Will not comply with subsection 4.

3. The Director shall not issue an operating permit or a revision of an operating permit for any stationary source if the Director determines, in accordance with subsection 3 of NAC 445B.311, that the degree of emission limitation required for control of an air pollutant under this section is affected by that amount of the stack height of any source as exceeds good engineering practice stack height, including a good engineering practice stack height demonstrated by a fluid model or a field study approved by the Director in accordance with paragraph (c) of subsection 1 of NAC 445B.083, or any other dispersion technique.

4. Except as otherwise provided in subsection 5, to be issued an operating permit or a revision of an operating permit, the owner or operator of a major stationary source or major modification, as those terms are defined in 40 C.F.R. § 51.165, who proposes to construct in an area designated nonattainment for the regulated air pollutant or pollutants for which the stationary source or modification is major must:

- (a) Comply with the provisions of 40 C.F.R. § 51.165, as adopted by reference in NAC 445B.221.
- (b) Adopt as an emission limitation for the stationary source the lowest achievable emission rate for each nonattainment regulated air pollutant from the stationary source.
- (c) Demonstrate that all other stationary sources within this State which are owned, operated or controlled by the applicant are in compliance or on a schedule of compliance with NAC

445B.001 to 445B.3689, inclusive, and all other applicable requirements and conditions of the permit.

(d) Conduct an analysis of any anticipated impact on visibility in any federal Class I area which may be caused by emissions from the stationary source.

(e) Conduct an analysis of alternative sites, sizes, processes of production and techniques for environmental control for the proposed stationary source. Except as otherwise provided in this paragraph, the analysis must demonstrate that the benefits of the proposed stationary source significantly outweigh the detrimental environmental and social effects that will result from its location, construction or modification. If the major stationary source or major modification proposes to locate in an area designated as marginal nonattainment for ozone, the analysis must demonstrate an offset ratio of 1.2 to 1 for volatile organic compounds and nitrogen oxides. For the purposes of this paragraph, a stationary source which is major for volatile organic compounds or nitrogen oxides shall be deemed major for ozone if the proposed location of the major stationary source or major modification is in an area designated as nonattainment for ozone.

(f) Comply with one of the following:

(1) Sufficient offsets in emissions must be obtained by the time the proposed stationary source begins operation to ensure that the total allowable emissions of each nonattainment regulated air pollutant from the existing stationary sources in the area, those stationary sources in the area which have received their respective permits and the proposed stationary source will be sufficiently less than the total emissions from the existing stationary sources and those stationary sources in the area which have received their respective permits before the proposed stationary source applies for its operating permit or a revision of an operating permit, in order to achieve reasonable further progress; or

(2) If the major stationary source or major modification is located in a zone identified by the Administrator as one to be targeted for economic development, the owner or operator must demonstrate that the emission from the stationary source will not cause or contribute to emissions levels which exceed the allowance permitted for a regulated air pollutant for the nonattainment area.

Ê For the purposes of this paragraph, offsets must comply with the provisions of Appendix S of 40 C.F.R. Part 51, as adopted by reference in NAC 445B.221, and be coordinated with the appropriate local agency for the control of air pollution.

5. To be issued an operating permit or a revision of an operating permit, the owner or operator of a major stationary source or major modification, as those terms are defined in 40 C.F.R. § 51.165, as adopted by reference in NAC 445B.221, who proposes to construct in an area designated as basic nonattainment for ozone must:

(a) Comply with the provisions of 40 C.F.R. § 51.165, as adopted by reference in NAC 445B.221.

(b) Adopt as an emission limitation for the stationary source the best available control technology for volatile organic compounds and nitrogen oxides from the stationary source.

(c) Demonstrate that all other stationary sources within this State that are owned, operated or controlled by the applicant are in compliance or on a schedule of compliance with NAC 445B.001 to 445B.3689, inclusive, and all other applicable requirements and conditions of the permit.

(d) Demonstrate an offset ratio of 1 to 1 for volatile organic compounds and nitrogen oxides. For the purposes of this paragraph, a stationary source that is major for volatile organic

compounds or nitrogen oxides shall be deemed major for ozone if the proposed location of the major stationary source or major modification is located in an area designated as basic nonattainment for ozone.

(e) Comply with one of the following:

(1) Sufficient offsets in emissions must be obtained by the time the proposed stationary source begins operation to ensure that the total allowable emissions of each nonattainment regulated air pollutant from the existing stationary sources in the area, those stationary sources in the area that have received their respective permits and the proposed stationary source will be sufficiently less than the total emissions from the existing stationary sources and those stationary sources in the area that received their respective permits before the proposed stationary source applies for its operating permit or a revision of an operating permit, in order to achieve reasonable further progress; or

(2) If the major stationary source or major modification is located in a zone identified by the Administrator as one to be targeted for economic development, the owner or operator must demonstrate that the emissions from the stationary source will not cause or contribute to emissions levels which exceed the allowance permitted for a regulated air pollutant for the nonattainment area.

Ê For the purposes of this paragraph, offsets must comply with the provisions of Appendix S of 40 C.F.R. Part 51, as adopted by reference in NAC 445B.221, and be coordinated with the appropriate local agency for the control of air pollution.

6. To be issued an operating permit or a revision of an operating permit, the owner or operator of a major stationary source or major modification who proposes to construct in any area designated as attainment or unclassifiable under 42 U.S.C. § 7407(d) must comply with the provisions of 40 C.F.R. § 52.21, as adopted by reference in NAC 445B.221.

7. The Director may impose any reasonable conditions on his or her approval, including conditions requiring the owner or operator of the stationary source to:

(a) Conduct monitoring of the quality of the ambient air at the facility site for a reasonable period before the commencement of construction or modification and for any specified period after operation has begun at the stationary source; and

(b) Meet standards for emissions that are more stringent than those found in NAC 445B.001 to 445B.3689, inclusive.

8. If a proposed stationary source located on contiguous property is constructed or modified in phases which individually are not subject to review as provided in NAC 445B.308 to 445B.314, inclusive, all phases occurring since November 7, 1975, must be added together for determining the applicability of those sections.

9. Approval and issuance of an operating permit or a revision of an operating permit for any stationary source does not affect the responsibilities of the owner or owners to comply with any other portion of the applicable state implementation plan.

10. As used in this section:

(a) “Lowest achievable emission rate” has the meaning ascribed to it in 40 C.F.R. § 51.165, as adopted by reference in NAC 445B.221.

(b) “Offset ratio” means the percentage by which a reduction in an emission must exceed the corresponding increase in that emission.

(c) “Reasonable further progress” means the annual incremental reductions in emissions of the relevant regulated air pollutant that are required by 42 U.S.C. §§ 7501 to 7515, inclusive, or

are required by the Administrator to ensure attainment of the applicable standard for national ambient air quality by the applicable date.

**Sec. 16.** NAC 445B.314 is hereby amended to read as follows:

445B.314 For the purposes of determining the effects of a Class III source *or a Class IV source* on the quality of ambient air pursuant to NAC 445B.308, 445B.310 and 445B.311, the heat input is the aggregate heat content of all combusted fuels, or the guaranteed maximum input of the manufacturer or designer of the equipment, whichever is greater. The total heat input of all fuel-burning units in a plant or on the premises must be used to determine the maximum amount of a regulated air pollutant which may be emitted.

**Sec. 17.** NAC 445B.327 is hereby amended to read as follows:

445B.327 1. Except as otherwise provided in this section, if a stationary source is not subject to the permitting requirements of 40 C.F.R. § 52.21, as incorporated by reference by NAC 445B.221, the fees for an operating permit are as follows:

(a) Class I operating permit to construct.....	\$20,000
(b) Conversion of an operating permit to construct into a Class I operating permit involving only one phase.....	5,000
(c) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase).....	5,000
(d) Modification to an operating permit to construct.....	5,000
(e) Revision of an operating permit to construct.....	5,000
(f) Class I operating permit.....	30,000
(g) Significant revision of a Class I operating permit.....	20,000
(h) Minor revision of a Class I operating permit.....	5,000
(i) Renewal of a Class I operating permit.....	5,000
(j) Class II operating permit.....	3,000
(k) Revision of a Class II operating permit.....	2,000
(l) Renewal of a Class II operating permit.....	2,000
(m) Class II general permit.....	500
(n) Class III operating permit.....	300
(o) Revision of a Class III operating permit.....	200
(p) Renewal of a Class III operating permit.....	250
(q) Surface area disturbance permit.....	500
(r) Revision of a surface area disturbance permit.....	200
(s) Administrative amendment of an operating permit.....	200
(t) Replacement of a lost or damaged operating permit to construct or an operating permit.....	200
(u) Request for change of location of an emission unit.....	100
(v) Administrative revision to a Class I operating permit.....	500
(w) Class I operating permit to construct for the approval of a plant wide applicability limitation.....	20,000
<i>(x) Class IV operating permit.....</i>	<i>50</i>

→ An applicant must pay the entire fee when he submits an application to the Director.

2. The fee to revise an operating permit so that the operating permit is consistent with any guidelines established by the Division of Environmental Protection of the State Department of

Conservation and Natural Resources pursuant to NAC 445B.255 is \$1,000. An applicant must pay the entire fee when he submits an application to the Director.

3. Except as otherwise provided in this section, if a stationary source is subject to the permitting requirements of 40 C.F.R. § 52.21, as adopted by reference in NAC 445B.221, the owner or operator of that stationary source must obtain an operating permit. The fees for such an operating permit are as follows:

- (a) Operating permit for a stationary source subject to the program for the prevention of significant deterioration of air quality.....\$50,000
- (b) Revision of an operating permit for a stationary source subject to the permitting requirements of 40 C.F.R. § 52.21 to authorize a major modification of the stationary source.....50,000
- (c) Class I operating permit to construct..... 50,000
- (d) Conversion of an operating permit to construct into a Class I operating permit involving only one phase.....5,000
- (e) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase)..... 5,000
- (f) Revision of an operating permit to construct.....5,000
- (g) Administrative amendment of an operating permit or operating permit to construct.....200
- (h) Replacement of a lost or damaged operating permit to construct or an operating permit.....200
- (i) Request for the change of location of an emission unit.....100
- (j) Administrative revision to a Class I operating permit..... 50

➤ An applicant must pay the entire fee when he submits an application to the Director.

4. If no changes need to be made to convert an operating permit to construct into a Class I operating permit, no fee will be assessed.

5. Except as otherwise provided in this subsection, the annual fee based on emissions for a Class I stationary source is \$16 per ton times the total tons of each regulated pollutant emitted during the preceding calendar year. The annual fee based on emissions does not apply to emissions of carbon monoxide.

6. To determine the fee set forth in subsection 5:

- (a) Emissions must be calculated using:
  - (1) The emission unit’s actual operating hours, rates of production and in-place control equipment;
  - (2) The types of materials processed, stored or combusted; and
  - (3) Data from:
    - (I) A test for emission compliance;
    - (II) A continuous emission monitor;
    - (III) The most recently published issue of Compilation of Air Pollutant Emission Factors, EPA Publication No. AP-42; or
    - (IV) Other emission factors or methods which the Director has validated; or
- (b) If paragraph (a) does not apply to a stationary source that was in operation during the preceding calendar year, emissions must be calculated using the permitted allowable emissions for that stationary source.

7. Except as otherwise provided in this section, the annual fee for maintenance of a stationary source is:

- (a) For a Class I source qualifying as:
  - (1) A major stationary source that is issued a prevention of significant deterioration permit.....\$30,000
  - (2) A major stationary source that is not issued a prevention of significant deterioration permit.....25,000
  - (3) A major source that is not a major stationary source and is issued a Class I operating permit..... 20,000
  - (4) A major source that is not a major stationary source and is issued a Class I operating permit for a municipal solid waste land..... 15,000
- (b) For a Class II source that has the potential to emit:
  - (1) Eighty tons or more per year but less than 100 tons per year of any one regulated air pollutant except carbon monoxide..... 5,000
  - (2) Eight tons or more per year but less than 10 tons per year of any single hazardous air pollutant..... 5,000
  - (3) Twenty tons or more per year but less than 25 tons per year of any combination of hazardous air pollutants..... 5,000
  - (4) Fifty tons or more per year but less than 80 tons per year of any one regulated air pollutant except carbon monoxide..... 3,000
  - (5) Twenty-five tons or more per year but less than 50 tons per year of any one regulated air pollutant except carbon monoxide..... 1,000
  - (6) Less than 25 tons per year of any one regulated air pollutant except carbon monoxide..... 500
- (c) For a Class II source that is issued a Class II general permit..... 500
- (d) For a Class III source..... 250
- (e) For a surface area disturbance permit for a total disturbance of:
  - (1) Five or more acres but less than 20 acres..... 250
  - (2) Twenty or more acres but less than 50 acres..... 500
  - (3) Fifty or more acres but less than 100 acres.....750
  - (4) One hundred or more acres but less than 200 acres..... 1,000
  - (5) Two hundred or more acres but less than 500 acres..... 2,000
  - (6) Five hundred or more acres..... 5,000
- (f) For a Class IV operating permit.....50***

8. The fee for conducting an informal review of a proposed new major source or proposed modification of an existing major source pursuant to NAC 445B.2915 is \$50,000.

9. The annual fee for maintenance of a stationary source for the fiscal year during which an operating permit or an operating permit to construct is issued for the stationary source is included in the fee for the operating permit or operating permit to construct.

10. For the fiscal year beginning on July 1, 2009, and for each fiscal year thereafter, the Director shall:

- (a) Increase the dollar per ton emissions rate that is used to calculate the annual fee based on emissions by an amount that is equal to 2 percent of the dollar per ton emissions rate for the immediately preceding fiscal year; and

(b) Increase the annual fee for maintenance of a stationary source by an amount that is equal to 2 percent of the annual fee for maintenance of the stationary source for the immediately preceding fiscal year.

→ The Director may, during any fiscal year, suspend an increase in a rate or fee specified in this subsection.

11. The State Department of Conservation and Natural Resources shall collect all fees required pursuant to subsections 5 and 7 not later than July 1 of each year.

12. Except as otherwise provided in this subsection, the owner or operator of a source who does not pay his annual fee installments within 30 days after the date on which payment becomes due will be assessed a late penalty in the amount of 25 percent of the amount of the fees due. The late fee must be paid in addition to the annual fees. The late penalty set forth in this subsection does not apply if, at the time that the late fee would otherwise be assessed, the owner or operator is in negotiations with the Director concerning his annual fees.

13. As used in this section, “prevention of significant deterioration permit” means an operating permit that is issued for a major source in accordance with the conditions set forth in 40 C.F.R. § 52.21.

**Sec. 18.** NAC 445B.346 is hereby amended to read as follows:

NAC 445B.346 In addition to the conditions set forth in NAC 445B.315, Class II operating permits must contain, as applicable:

1. Emission limitations and standards, including those operational requirements and limitations that ensure compliance with the conditions of the operating permit.

2. All requirements for monitoring, testing and reporting that apply to the stationary source.

3. A requirement that the owner or operator of the stationary source promptly report any deviations from any requirements of the operating permit.

4. The terms and conditions for any reasonably anticipated alternative operating scenarios identified by the owner or operator of the stationary source in his application and approved by the Director. Such terms and conditions must require the owner or operator to keep a contemporaneous log of changes from one alternative operating scenario to another.

5. A schedule of compliance for stationary sources that are not in compliance with any applicable requirement or NAC 445B.001 to 445B.3689, inclusive, at the time the operating permit is issued, including:

(a) Semiannual progress reports and a schedule of dates for achieving milestones;

(b) Prior notice of and explanations for missed deadlines; and

(c) Any preventive or corrective measures taken.

~~[6. Requirements for compliance certification which reflect the terms and conditions of the operating permit. A compliance certification must include:~~

~~—(a) An identification of each term or condition of the operating permit that is the basis of the certification;~~

~~—(b) The status of the stationary source’s compliance with any applicable requirement;~~

~~—(c) A statement of whether compliance was continuous or intermittent;~~

~~—(d) The method used for determining compliance; and~~

~~—(e) Any other facts that the Director deems necessary to determine compliance.]~~

# ATTACHMENT 2

Exhibit 1: T009-11 Air Pollution Control Adopt by Reference; Greenhouse Gas Permitting

**PROPOSED TEMPORARY REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION**

**P2011-01**

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted. Matter in *green* was revised pursuant to the public workshops June 1 and 3, 2011; matter in green underline is new; matter in ~~green-strikeout~~ is material to be omitted.

AUTHORITY: §1, NRS 445B.210.

A TEMPORARY REGULATION relating to the State Environmental Commission; ~~revising the definition of “major source” and “regulated air pollutant;”~~ revising the provisions governing the adoption by reference of certain federal regulations by the State Environmental Commission; and providing other matters properly relating thereto.

**Section. 1.** ~~NAC 445B.094 is hereby amended to read as follows:~~

~~NAC 445B.094 “Major source” defined.~~

~~—1. Except as otherwise provided in subsection 3, “major source” means any stationary source that:~~

~~—(a) Is located on one or more contiguous or adjacent properties;~~

~~—(b) Is under the common control of the same person or persons;~~

~~—(c) Belongs to a single major industrial grouping as described in the *Standard Industrial Classification Manual*, as incorporated by reference in NAC 445B.221; and~~

~~—(d) Meets one of the following conditions:~~

~~——(1) Is located in a nonattainment area and is required to obtain an operating permit pursuant to 42 U.S.C. §§ 7501 to 7515, inclusive;~~

~~——(2) Directly emits or has the potential to emit:~~

~~——(I) One hundred tons per year or more of any regulated air pollutant, excluding particulate matter more than 10 microns in diameter [;], *except that:*~~

~~*(i) Greenhouse gases, as defined in NRS 445B.137, shall not be subject to regulation unless, as of July 1, 2011, the greenhouse gas emissions are at a stationary source emitting or having the potential to emit 100,000 tons per year CO<sub>2</sub> equivalent emissions and 100 tons per year on a mass basis;*~~

~~*(ii) The term “tons per year CO<sub>2</sub> equivalent emissions” shall represent an amount of greenhouse gases emitted, and shall be computed by multiplying the mass amount of emissions in tons per year, for each of the six greenhouse gases in the pollutant greenhouse gases, by the gas’s associated global warming potential as published at 40 C.F.R. Part 98, Table A-1, and summing the resultant value for each to compute a tons per year of CO<sub>2</sub> equivalent emissions;*~~

~~*(iii) The term “tons per year on a mass basis” shall represent an amount of greenhouse gases emitted, and shall be calculated as the sum of the six greenhouse gases on a mass basis; or*~~

~~——(II) Ten tons per year or more of a hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants or a lesser quantity as established by the Commission; or~~

~~— (3) Is located in a particulate matter (PM<sub>10</sub>) “serious” nonattainment area and directly emits or has the potential to emit 70 tons per year or more of PM<sub>10</sub>;~~

~~→ The Director shall consider fugitive emissions in determining whether a stationary source is major for any source category listed in 40 C.F.R. § 52.21(b)(1)(iii), as adopted by reference pursuant to NAC 445B.221, or whether a stationary source of a hazardous air pollutant is a major source. To determine whether a stationary source is a major source of hazardous air pollutants under 42 U.S.C. § 7412, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station must not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control.~~

~~— 2. In determining whether a stationary source is a major source, the Director shall not consider the emissions from mobile sources subject to regulation under Title II of the federal Clean Air Act, 42 U.S.C. §§ 7521 to 7590, inclusive, or from nonroad engines.~~

~~— 3. For the purposes of the program for the prevention of significant deterioration of air quality (PSD), the term “major source” is synonymous with the term “major stationary source” as that term is defined in 40 C.F.R. § 52.21(b)(1), as adopted by reference in NAC 445B.221.~~

**Sec. 2.** NAC 445B.153 is hereby amended to read as follows:

**NAC 445B.153 “Regulated air pollutant” defined.** “Regulated air pollutant” means:

~~— 1. Nitrogen oxides or any volatile organic compounds;~~

~~— 2. Any pollutant subject to:~~

~~— (a) A national ambient air quality standard and any constituents or precursors for such pollutants identified by the Administrator;~~

~~— (b) A standard or requirement adopted pursuant to 42 U.S.C. § 7411; or~~

~~— (c) A standard established pursuant to NAC 445B.22097;~~

~~— 3. Any Class I or Class II substance subject to a standard adopted pursuant to 42 U.S.C. §§ 7671 to 7671q, inclusive; or~~

~~— 4. Any pollutant that otherwise is subject to regulation under the Act, except that any hazardous air pollutant regulated under 42 U.S.C. § 7412 is not a regulated air pollutant unless the hazardous air pollutant is also regulated as a constituent or precursor of an air pollutant listed pursuant to 42 U.S.C. § 7408.~~

~~5. As used in this section, “subject to regulation” means:~~

~~(a) For a stationary source that is subject to the provisions of 40 C.F.R. § 52.21, has the meaning ascribed to it in 40 C.F.R. § 52.21(49), as incorporated by reference in NAC 445B.221; or~~

~~(b) The provisions of 40 C.F.R. Part 70, has the meaning ascribed to it in 40 C.F.R. § 70.2.~~

**Sec. 1.** NAC 445B.221 is hereby amended to read as follows:

**NAC 445B.221 Adoption by reference and applicability of certain provisions of federal law and regulations.**

1. Title 40 C.F.R. §§ 51.100(s), 51.100(nn), and 51.301 and Appendix S of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, [2009] 2010.

2. Title 40 C.F.R. § 51.165 is hereby adopted by reference as it existed on July 1, 2002.

3. Appendices M and W of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, [2009] 2010.

4. Title 40 C.F.R. § 52.21 is hereby adopted by reference as it existed on July 1, ~~[2009]~~ **2010**.

**5. The amendments Title 40 C.F.R. § 52.21 as set forth in Volume 75 of the Federal Register at pages 31514 et seq., June 3, 2010, are hereby adopted by reference.**

~~[5-]~~ **6. [The] Except as otherwise provided in subsection 6, the** following subparts of 40 C.F.R. Part 60 are hereby adopted by reference:

(a) Subpart A, except §§ 60.4, 60.8(b)(2), 60.8(b)(3) and 60.11(e), as it existed on July 1, ~~[2009]~~ **2010**;

(b) Section 60.21 of Subpart B, as it existed on July 1, ~~[2006]~~ **2010**;

(c) Subparts C, Cb, Cc, Cd, Ce, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, CCCC, DDDD, EEEE, FFFF, IIII, JJJJ and KKKK as they existed on July 1, ~~[2009]~~ **2010**; and

(d) Subpart HHHH, except §§ 60.4105(b)(2), 60.4106, 60.4120 to 60.4142, inclusive, 60.4153(a) and (b) and 60.4176, as set forth in Volume 70 of the Federal Register at pages 28606 et seq., May 18, 2005, and the amendments to Subpart HHHH as set forth in Volume 71 of the Federal Register at pages 33388 et seq., June 9, 2006.

**7. The amendments to:**

**(a) Subparts Ce and Ec of Title 40 C.F.R. Part 60 as set forth in Volume 76 of the Federal Register at pages 18407 et seq., April 4, 2011; and**

**(b) Subpart F of Title 40 C.F.R. Part 60 as set forth in Volume 75 of the Federal Register at pages 54970 et seq., September 9, 2010,**

**↪ are hereby adopted by reference.**

~~[6-]~~ **8.** Appendices A, B and F of 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, ~~[2009]~~ **2010**.

**9. The amendments to Appendices B and F of Title 40 C.F.R. Part 60 as set forth in Volume 75 of the Federal Register at pages 54970 et seq., September 9, 2010, are hereby adopted by reference.**

~~[7-]~~ **10.** Subparts A, C, D, E, F, H, I, J, K, L, N, O, P, Q, R, T, V, W, Y, BB and FF of 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, ~~[2009]~~ **2010**.

~~[8-]~~ **11.** Appendix B of Title 40 C.F.R. Part 61 is hereby adopted by reference as it existed on July 1, ~~[2009]~~ **2010**.

~~[9-]~~ **12. [Subparts] Except as otherwise provided in subsection 13, subparts** A, B, C, F, G, H, I, J, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, LL, MM, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWW, XXXX, YYYY, ZZZZ, AAAA, BBBB, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, JJJJ, KKKK, LLLL, MMMM, NNNN, PPPP, QQQQ, SSSS, WWW, YYYY, ZZZZ, DDDDD, EEEEE, FFFFF, GGGGG, LLLLL, MMMMM, NNNNN, OOOOO, PPPPP, QQQQQ, RRRRR, SSSSS and TTTTT of 40 C.F.R. Part 63 are hereby adopted by reference as they existed on July 1, ~~[2009]~~ **2010**.

**13. The amendments to:**

*(a) Subpart LLL of Title 40 C.F.R. Part 63 as set forth in Volume 75 of the Federal Register at pages 54970 et seq., September 9, 2010; and*

*(b) Subpart DDDDD of Title 40 C.F.R. Part 63 as set forth in Volume 76 of the Federal Register at pages 15608 et seq., March 21, 2011, are hereby adopted by reference.*

*14. Appendix A of Title 40 C.F.R. Part 63, as set forth in Volume 75 of the Federal Register at page 54970, September 9, 2010, is hereby adopted by reference.*

~~[10.]~~ 15. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, ~~[2009]~~ 2010. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.3689, inclusive, the provisions of 40 C.F.R. Part 72 apply.

~~[11.]~~ 16. Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, ~~[2009]~~ 2010. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.3689, inclusive, the provisions of 40 C.F.R. Part 76 apply.

~~[12.]~~ 17. Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, is hereby adopted by reference as it existed on October 1, 1993.

~~[13.]~~ 18. The *Standard Industrial Classification Manual*, 1987 edition, published by the United States Office of Management and Budget, is hereby adopted by reference. A copy of the manual may be obtained, free of charge, from the United States Department of Labor at the Internet address <http://www.dol.gov>.

~~[14.]~~ 19. A copy of the publications which contain the provisions adopted by reference in subsections 1 to ~~[12.]~~ 17, inclusive, may be obtained from the:

(a) Division of State Library and Archives of the Department of Cultural Affairs for 10 cents per page.

(b) Government Printing Office, free of charge, at the Internet address <http://www.gpoaccess.gov/nara/index.html>.

~~[15.]~~ 20. The following standards of ASTM International are hereby adopted by reference:

(a) ASTM D5504, “Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Chemiluminescence,” set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D5504 is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$37.

(b) ASTM D2234 and D2234M, “Standard Practice for Collection of a Gross Sample of Coal,” set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D2234 and D2234M is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$37.

(c) ASTM D2013, “Standard Practice for Preparing Coal Samples for Analysis,” set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D2013 is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$43.

(d) ASTM D6784, “Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),” set forth in Volume 11.07 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D6784 is available by mail from ASTM International, 100 Barr Harbor Drive, West

Conshohocken, Pennsylvania 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$43.

(e) ASTM D2015, “Standard Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter,” dated April 10, 2000. A copy of ASTM D2015 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/S A110B, Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of \$52.

(f) ASTM D3286, “Standard Test Method for Gross Calorific Value of Coal and Coke by the Isoperibol Bomb Calorimeter,” dated July 10, 1996. A copy of ASTM D3286 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/S A110B, Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of \$52.

(g) ASTM D1989, “Standard Test Method for Gross Calorific Value of Coal and Coke by Microprocessor Controlled Isoperibol Calorimeters,” dated July 10, 1997. A copy of ASTM D1989 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/S A110B, Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of \$52.

~~[16]~~ **21.** For the purposes of the provisions of 40 C.F.R. Parts 60, 61 and 63, adopted by reference pursuant to this section, the Director may not approve alternate or equivalent test methods or alternative standards or work practices.

~~[17]~~ **22.** Except as otherwise provided in subsections ~~[10]~~ **15** and ~~[11]~~ **16**, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.3689, inclusive, for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

~~[18]~~ **23.** For the purposes of this section, “administrator” as used in the provisions of 40 C.F.R. Part 60, except Subpart B § 60.21 and Subpart HHHH §§ 60.4101 to 60.4105, inclusive, 60.4107 to 60.4114, inclusive, 60.4151 to 60.4173, inclusive, and 60.4175, and Parts 61 and 63, adopted by reference pursuant to this section, means the Director.

**Sec. 2.** NAC 445B.230 is hereby amended to read as follows:

**NAC 445B.230 Plan for reduction of emissions.**

1. Any person who is able to cause or permit the emission of 100 tons (90.7 metric tons) or more per year of a regulated air pollutant, *except for greenhouse gas emissions*, from a stationary source shall prepare and submit to the Director a plan for reducing or eliminating that emission in accordance with the episode stages of alert, warning, and emergency as defined in the applicable state implementation plan.

2. Any person required to have an operating permit who is able to cause or permit the emission of less than 100 tons (90.7 metric tons) per year of a regulated air pollutant, *except for greenhouse gas emissions*, shall, upon written notice from the Director, prepare and submit to the Director a plan for reducing or eliminating that emission in accordance with the episode stages of alert, warning, and emergency as defined in the applicable state implementation plan.

3. The written notice required under subsection 2 must be transmitted in accordance with subsection 4 to all persons who are within the same classification of sources as defined in the *Standard Industrial Classification Manual*, adopted by reference in NAC 445B.221, and who are able to cause or permit the emission of less than 100 tons (90.7 metric tons) per year of a regulated air pollutant, *except for greenhouse gas emissions*.

4. Written notice shall be deemed to have been served if delivered to the person to whom addressed or if sent by registered or certified mail to the last known address of the person.

**Sec. 3.** NAC 445B.327 is hereby amended to read as follows:

**445B.327 Fees; late penalty.** 1. Except as otherwise provided in this section, if a stationary source is not subject to the permitting requirements of 40 C.F.R. § 52.21, as incorporated by reference by NAC 445B.221, the fees for an operating permit are as follows:

(a) Class I operating permit to construct.....	\$20,000
(b) Conversion of an operating permit to construct into a Class I operating permit involving only one phase.....	5,000
(c) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase).....	5,000
(d) Modification to an operating permit to construct.....	5,000
(e) Revision of an operating permit to construct.....	5,000
(f) Class I operating permit.....	30,000
(g) Significant revision of a Class I operating permit.....	20,000
(h) Minor revision of a Class I operating permit.....	5,000
(i) Renewal of a Class I operating permit.....	5,000
(j) Class II operating permit.....	3,000
(k) Revision of a Class II operating permit.....	2,000
(l) Renewal of a Class II operating permit.....	2,000
(m) Class II general permit.....	500
(n) Class III operating permit.....	300
(o) Revision of a Class III operating permit.....	200
(p) Renewal of a Class III operating permit.....	250
(q) Surface area disturbance permit.....	500
(r) Revision of a surface area disturbance permit.....	200
(s) Administrative amendment of an operating permit.....	200
(t) Replacement of a lost or damaged operating permit to construct or an operating permit.....	200
(u) Request for change of location of an emission unit.....	100
(v) Administrative revision to a Class I operating permit.....	500
(w) Class I operating permit to construct for the approval of a plant wide applicability limitation.....	20,000

↳ An applicant must pay the entire fee when he submits an application to the Director.

2. The fee to revise an operating permit so that the operating permit is consistent with any guidelines established by the Division of Environmental Protection of the State Department of Conservation and Natural Resources pursuant to NAC 445B.255 is \$1,000. An applicant must pay the entire fee when he submits an application to the Director.

3. Except as otherwise provided in this section, if a stationary source is subject to the permitting requirements of 40 C.F.R. § 52.21, as adopted by reference in NAC 445B.221, the owner or operator of that stationary source must obtain an operating permit. The fees for such an operating permit are as follows:

(a) Operating permit for a stationary source subject to the program for the prevention of significant deterioration of air quality.....	\$50,000
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(b) Revision of an operating permit for a stationary source subject to the permitting requirements of 40 C.F.R. § 52.21 to authorize a major modification of the stationary source.....	50,000
(c) Class I operating permit to construct.....	50,000
(d) Conversion of an operating permit to construct into a Class I operating permit involving only one phase.....	5,000
(e) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase).....	5,000
(f) Revision of an operating permit to construct.....	5,000
(g) Administrative amendment of an operating permit or operating permit to construct.....	200
(h) Replacement of a lost or damaged operating permit to construct or an operating permit.....	200
(i) Request for the change of location of an emission unit.....	100
(j) Administrative revision to a Class I operating permit.....	50

➤ An applicant must pay the entire fee when he submits an application to the Director.

4. If no changes need to be made to convert an operating permit to construct into a Class I operating permit, no fee will be assessed.

5. Except as otherwise provided in this subsection, the annual fee based on emissions for a Class I stationary source is \$16 per ton times the total tons of each regulated pollutant emitted during the preceding calendar year. The annual fee based on emissions does not apply to emissions of carbon monoxide *or emissions of greenhouse gases, as defined in NRS 445B.137.*

6. To determine the fee set forth in subsection 5:

(a) Emissions must be calculated using:

(1) The emission unit’s actual operating hours, rates of production and in-place control equipment;

(2) The types of materials processed, stored or combusted; and

(3) Data from:

(I) A test for emission compliance;

(II) A continuous emission monitor;

(III) The most recently published issue of Compilation of Air Pollutant Emission Factors, EPA Publication No. AP-42; or

(IV) Other emission factors or methods which the Director has validated; or

(b) If paragraph (a) does not apply to a stationary source that was in operation during the preceding calendar year, emissions must be calculated using the permitted allowable emissions for that stationary source.

7. Except as otherwise provided in this section, the annual fee for maintenance of a stationary source is:

(a) For a Class I source qualifying as:

(1) A major stationary source that is issued a prevention of significant deterioration permit.....\$30,000

(2) A major stationary source that is not issued a prevention of significant deterioration permit.....25,000

(3) A major source that is not a major stationary source and is issued a Class I operating permit..... 20,000

- (4) A major source that is not a major stationary source and is issued a Class I operating permit for a municipal solid waste land..... 15,000
  - (b) For a Class II source that has the potential to emit:
    - (1) Eighty tons or more per year but less than 100 tons per year of any one regulated air pollutant except carbon monoxide..... 5,000
    - (2) Eight tons or more per year but less than 10 tons per year of any single hazardous air pollutant..... 5,000
    - (3) Twenty tons or more per year but less than 25 tons per year of any combination of hazardous air pollutants..... 5,000
    - (4) Fifty tons or more per year but less than 80 tons per year of any one regulated air pollutant except carbon monoxide..... 3,000
    - (5) Twenty-five tons or more per year but less than 50 tons per year of any one regulated air pollutant except carbon monoxide..... .. 1,000
    - (6) Less than 25 tons per year of any one regulated air pollutant except carbon monoxide..... 500
  - (c) For a Class II source that is issued a Class II general permit..... 500
  - (d) For a Class III source..... 250
  - (e) For a surface area disturbance permit for a total disturbance of:
    - (1) Five or more acres but less than 20 acres..... 250
    - (2) Twenty or more acres but less than 50 acres..... 500
    - (3) Fifty or more acres but less than 100 acres..... 750
    - (4) One hundred or more acres but less than 200 acres..... 1,000
    - (5) Two hundred or more acres but less than 500 acres..... 2,000
    - (6) Five hundred or more acres..... 5,000

8. The fee for conducting an informal review of a proposed new major source or proposed modification of an existing major source pursuant to NAC 445B.2915 is \$50,000.

9. The annual fee for maintenance of a stationary source for the fiscal year during which an operating permit or an operating permit to construct is issued for the stationary source is included in the fee for the operating permit or operating permit to construct.

10. For the fiscal year beginning on July 1, 2009, and for each fiscal year thereafter, the Director shall:

- (a) Increase the dollar per ton emissions rate that is used to calculate the annual fee based on emissions by an amount that is equal to 2 percent of the dollar per ton emissions rate for the immediately preceding fiscal year; and

- (b) Increase the annual fee for maintenance of a stationary source by an amount that is equal to 2 percent of the annual fee for maintenance of the stationary source for the immediately preceding fiscal year.

↪ The Director may, during any fiscal year, suspend an increase in a rate or fee specified in this subsection.

11. The State Department of Conservation and Natural Resources shall collect all fees required pursuant to subsections 5 and 7 not later than July 1 of each year.

12. Except as otherwise provided in this subsection, the owner or operator of a source who does not pay his annual fee installments within 30 days after the date on which payment becomes due will be assessed a late penalty in the amount of 25 percent of the amount of the fees due. The late fee must be paid in addition to the annual fees. The late penalty set forth in this subsection

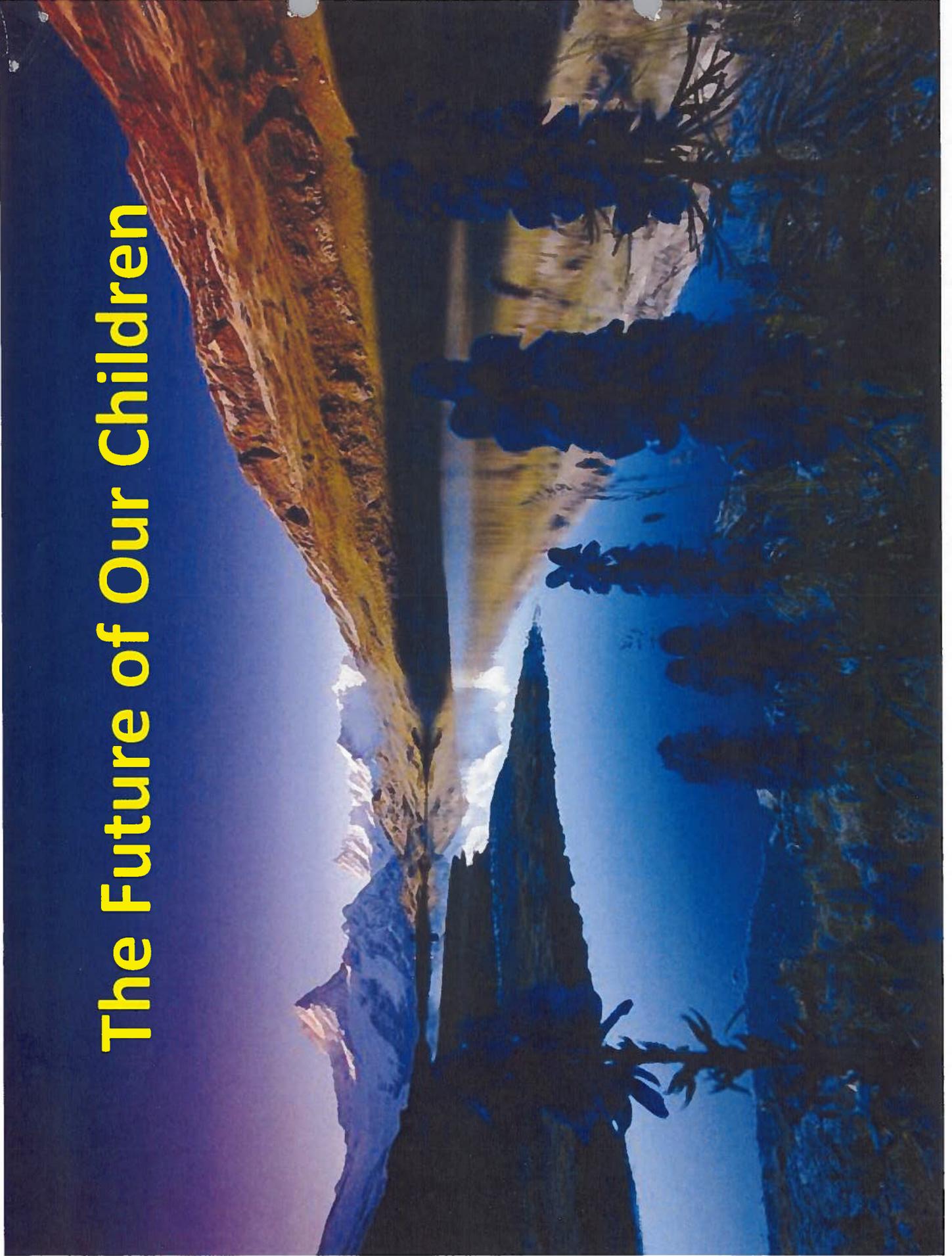
does not apply if, at the time that the late fee would otherwise be assessed, the owner or operator is in negotiations with the Director concerning his annual fees.

13. As used in this section, “prevention of significant deterioration permit” means an operating permit that is issued for a major source in accordance with the conditions set forth in 40 C.F.R. § 52.21.

# ATTACHMENT 3

Power Point: The Future of Our Children

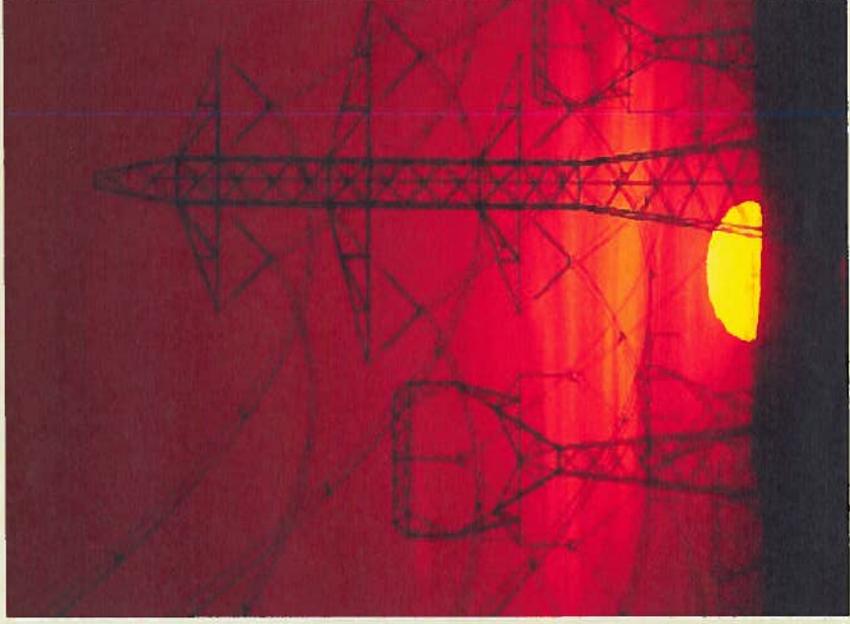
# The Future of Our Children

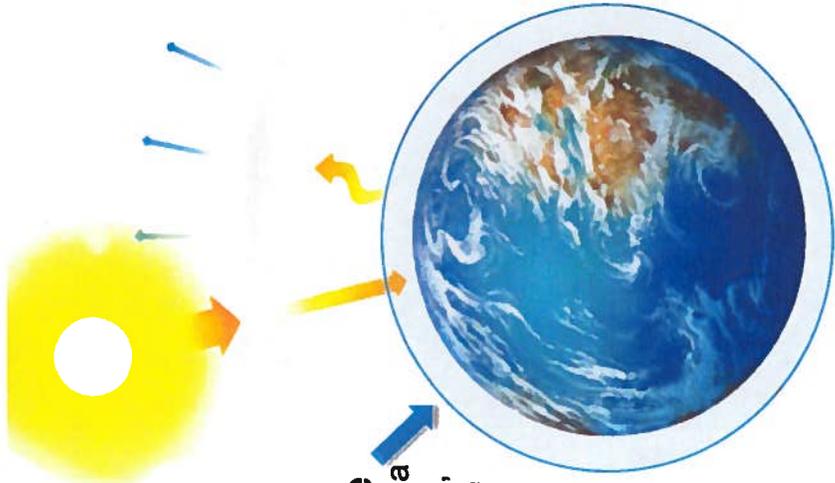


## Global Warming is Already Occurring

- In 2009 the EPA stated that *“climate change is upon us as a result of greenhouse gas emissions, that climate changes are already occurring that harm our health and welfare, and that the effects will only worsen over time in the absence of regulatory action.”*
- The IPCC has observed that, *“[w]arming of the climate system is unequivocal.”*

# 70 Million Tons of Carbon Every Day



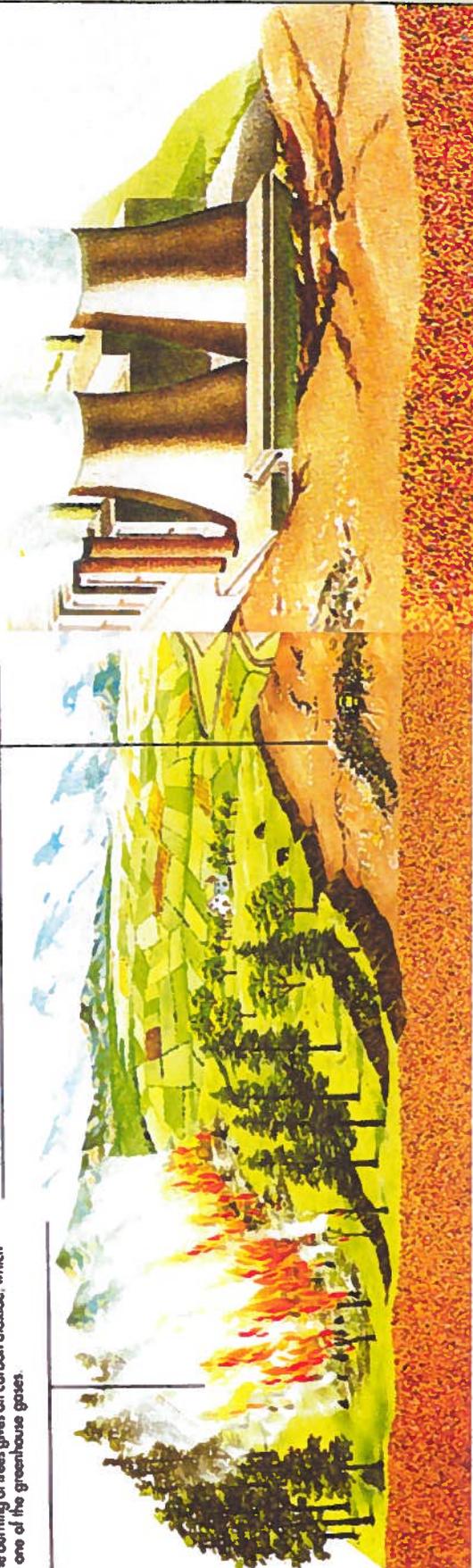


**Ozone**  
The ozone layer acts like a blanket around the planet, trapping CO2 causing the earth's climate to change

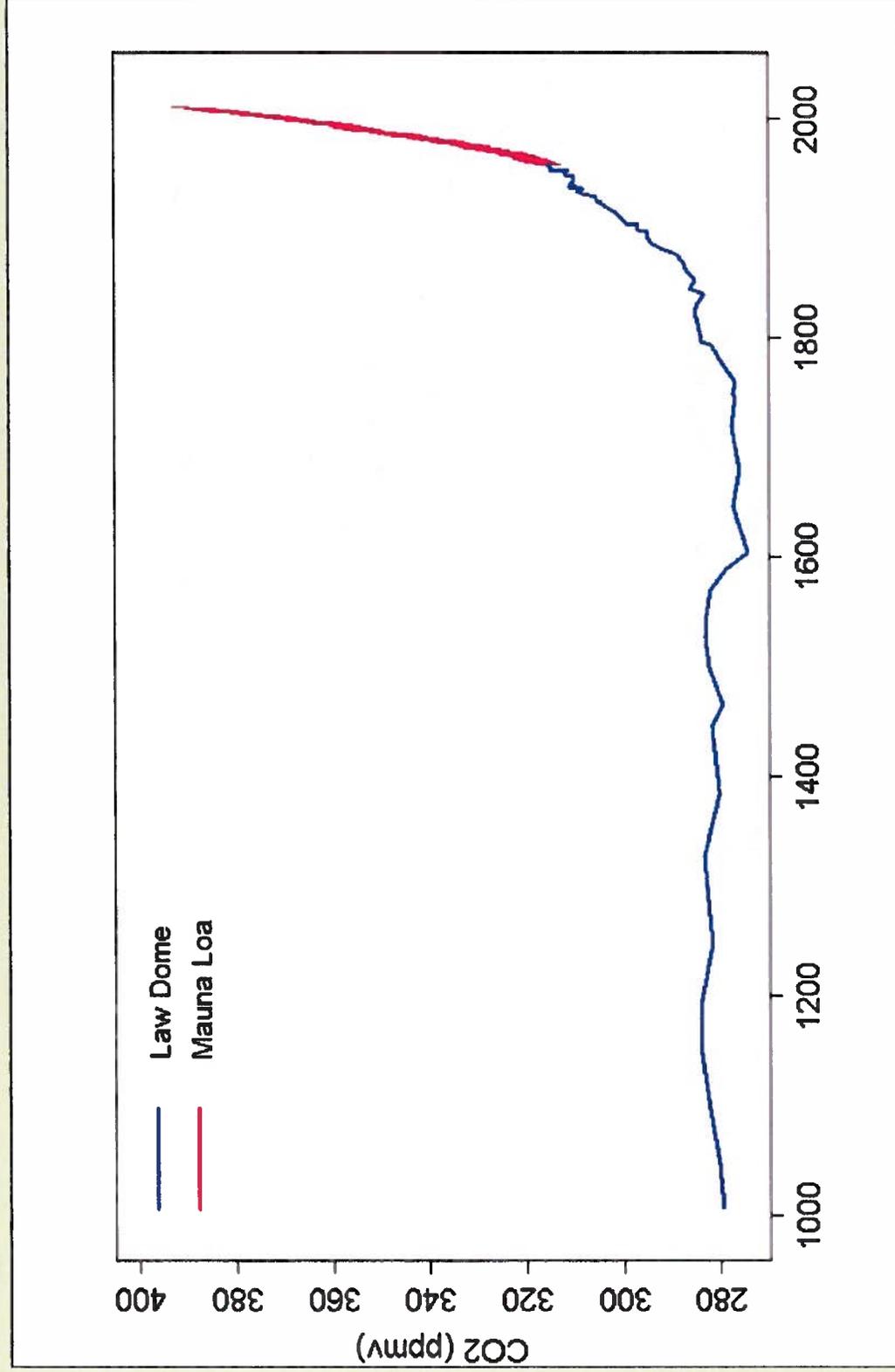
Today, industries and power plants are great producers of many of these gases.

The burning of trees gives off carbon dioxide, which is one of the greenhouse gases.

The incineration of solid wastes produces different gases which, when emitted into the atmosphere, intensify the greenhouse effect.



# Atmospheric CO<sub>2</sub>

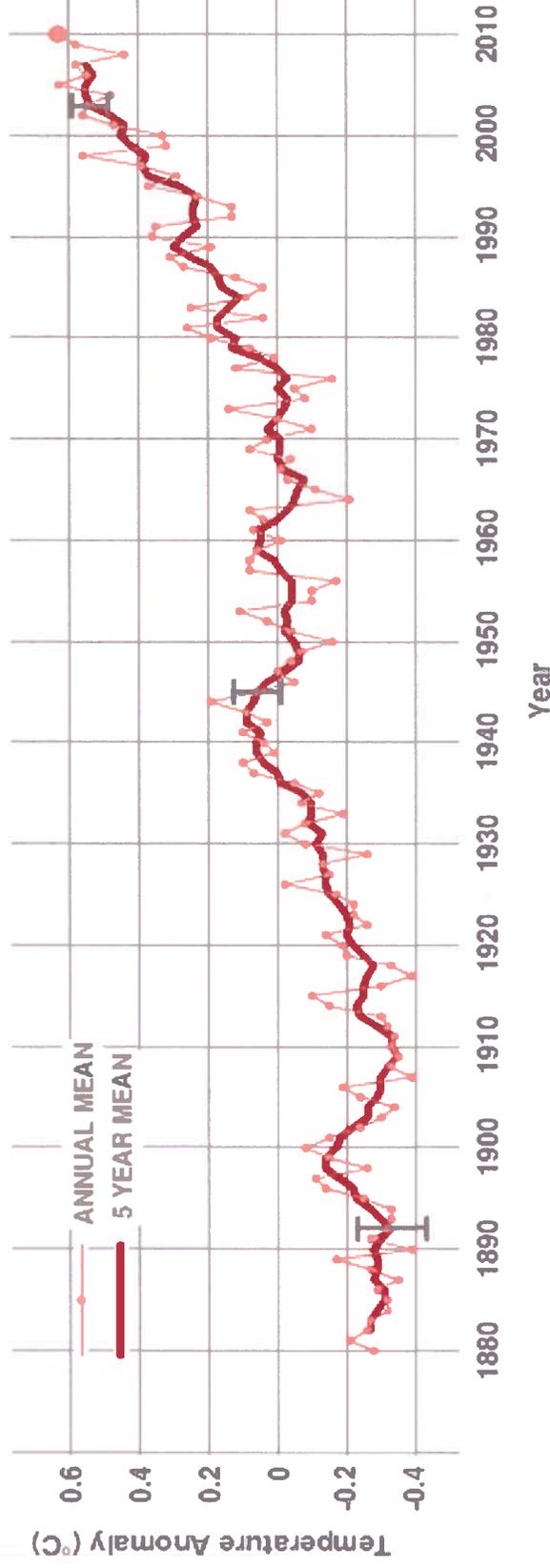


Currently, atmospheric CO<sub>2</sub> concentration is about **390 ppm**  
(as compared to 280 ppm pre-industrial)

# Global Temperature on the Rise

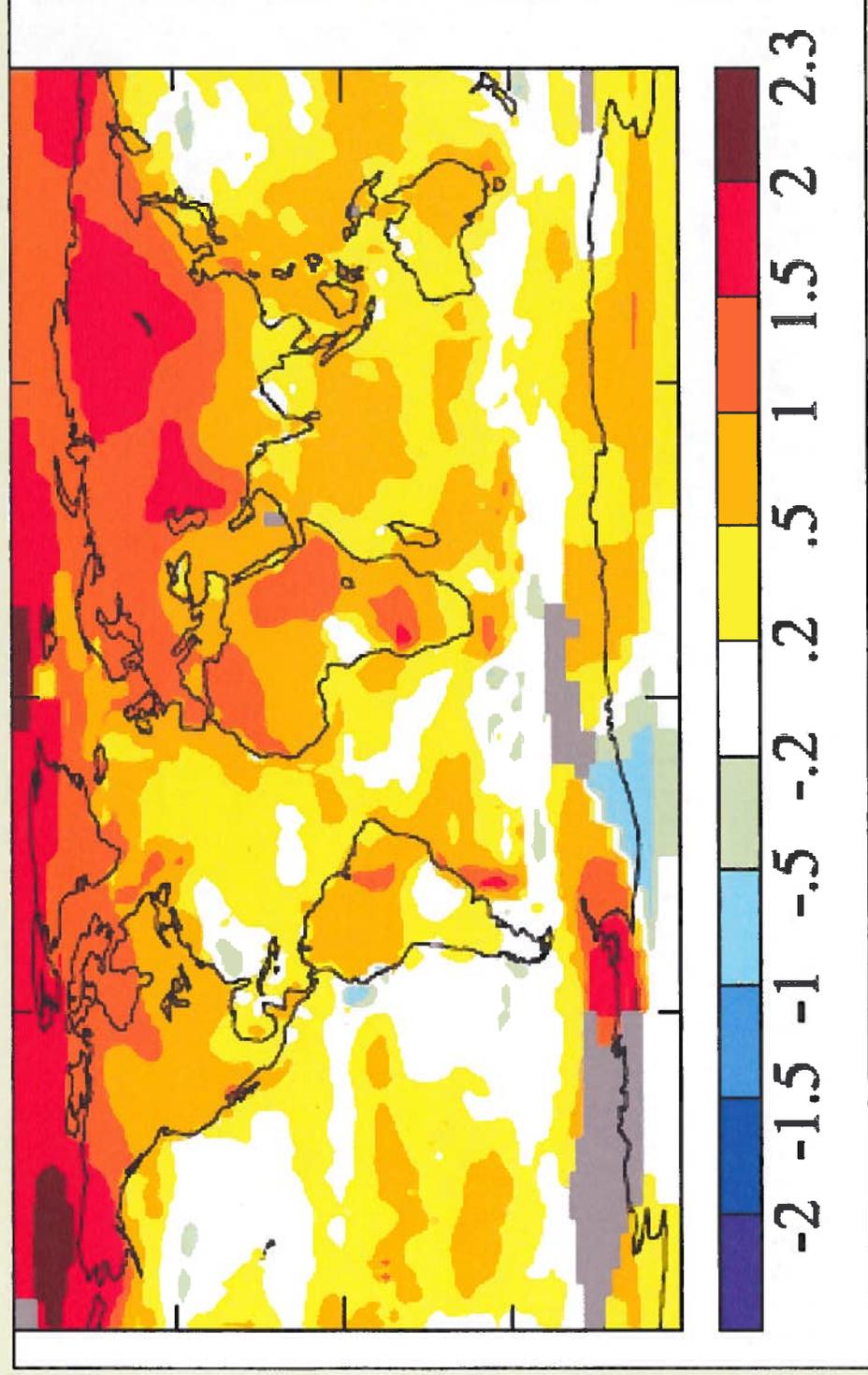
## GLOBAL LAND-OCEAN TEMPERATURE INDEX

Source: NASA/GISS. This research is broadly consistent with similar constructions prepared by the [Climatic Research Unit](#) and the [National Atmospheric and Oceanic Administration](#). Credit: [NASA/GISS](#)



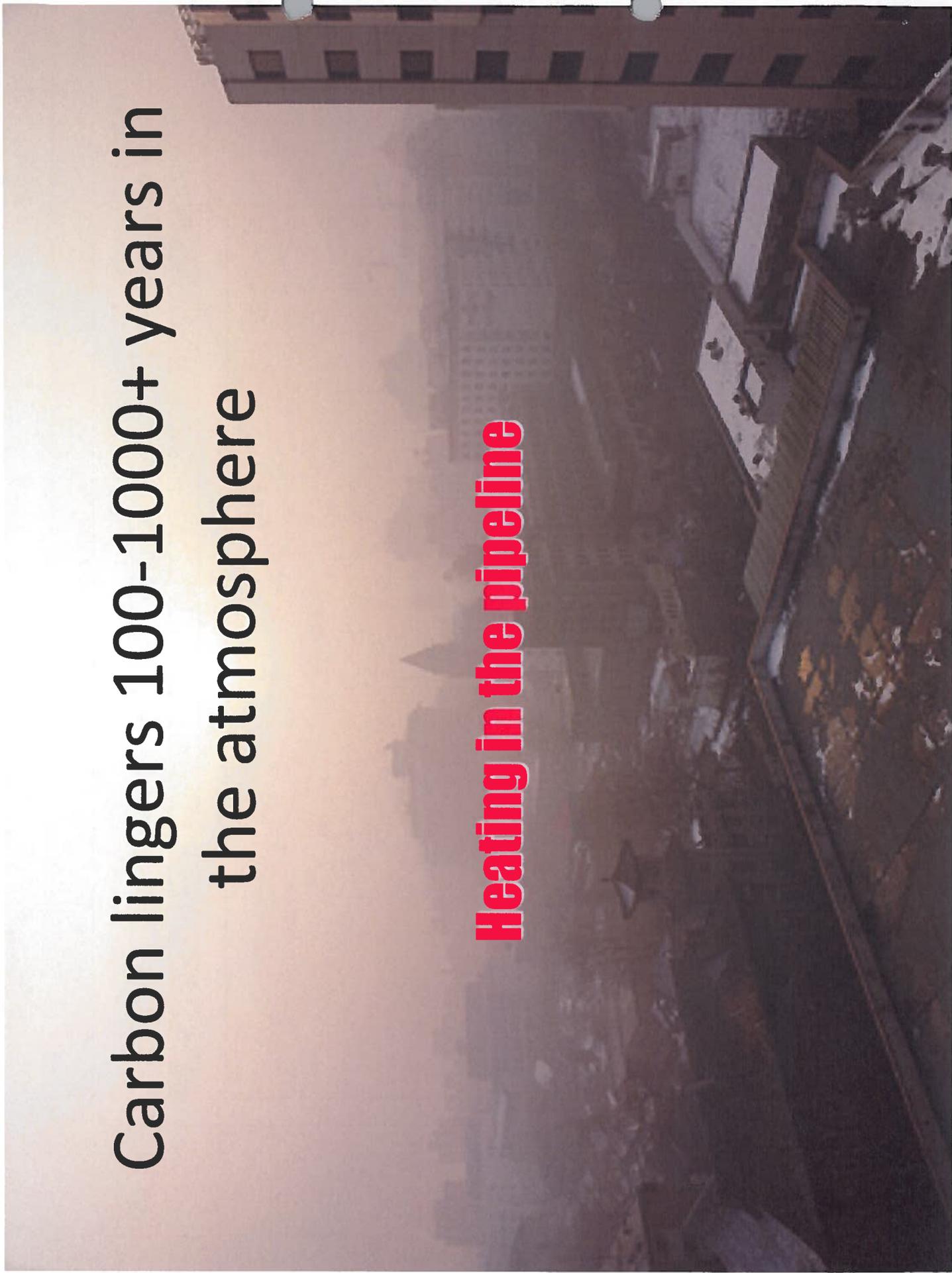
Global temperatures have increased by **1.4° F (0.8° C)** in the past 150 years  
2010 was tied for the hottest year on record

# Average Global Surface Temperature for 2001-2007 Relative to 1951-1980

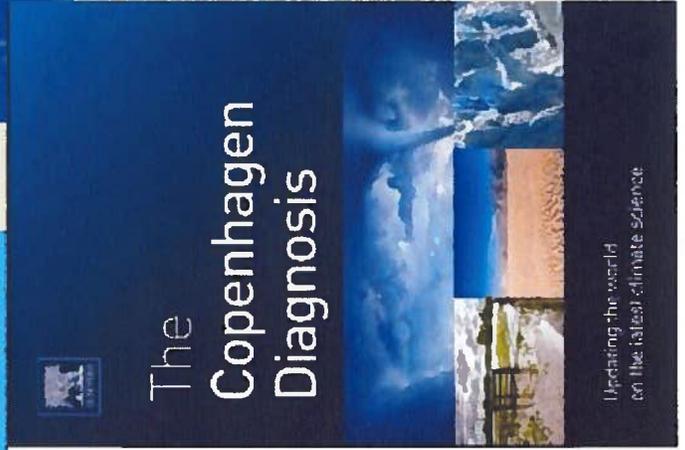
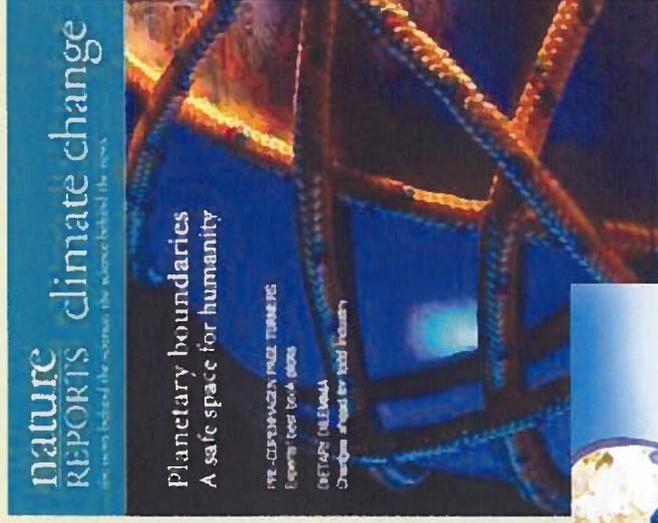
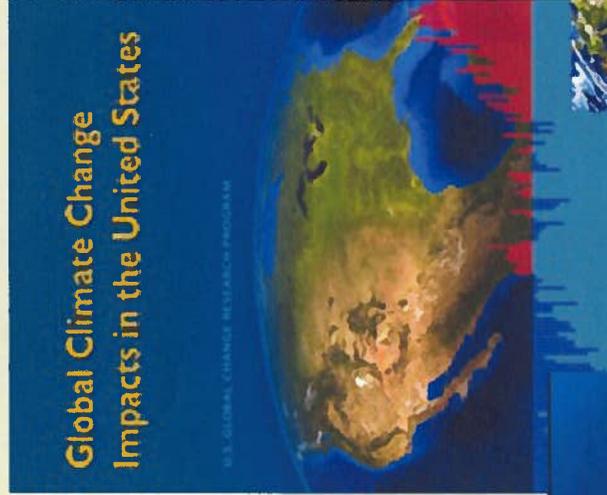
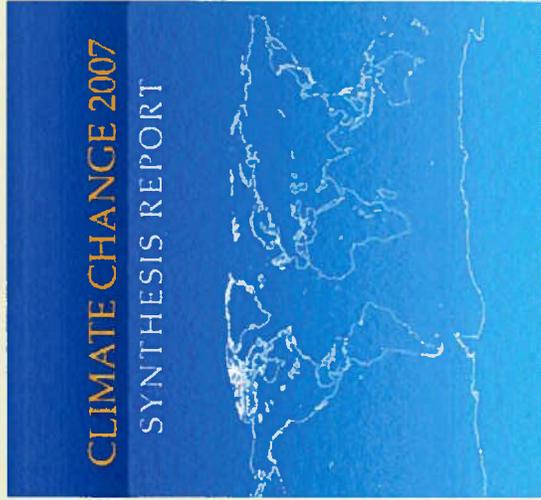


Carbon lingers 100-1000+ years in  
the atmosphere

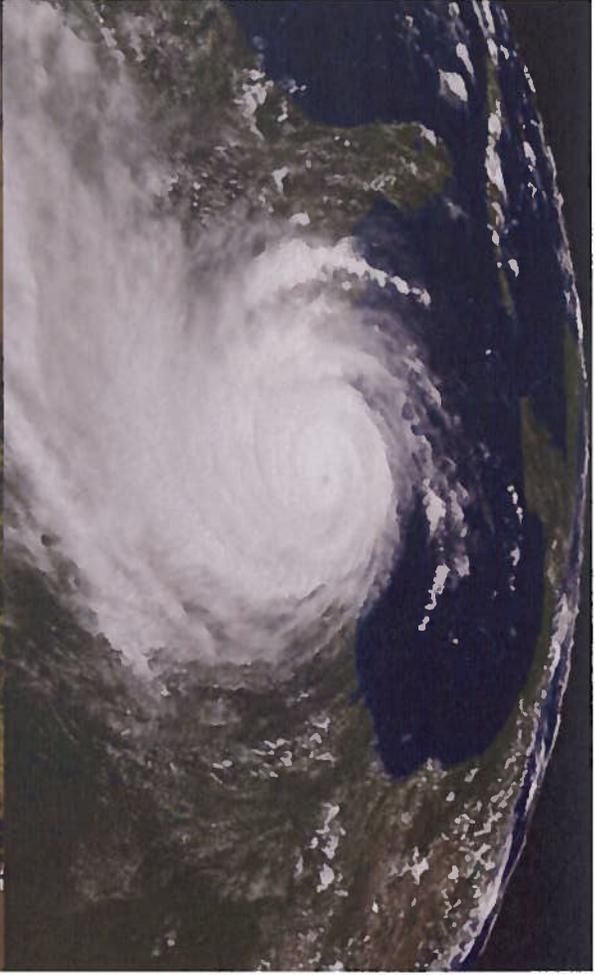
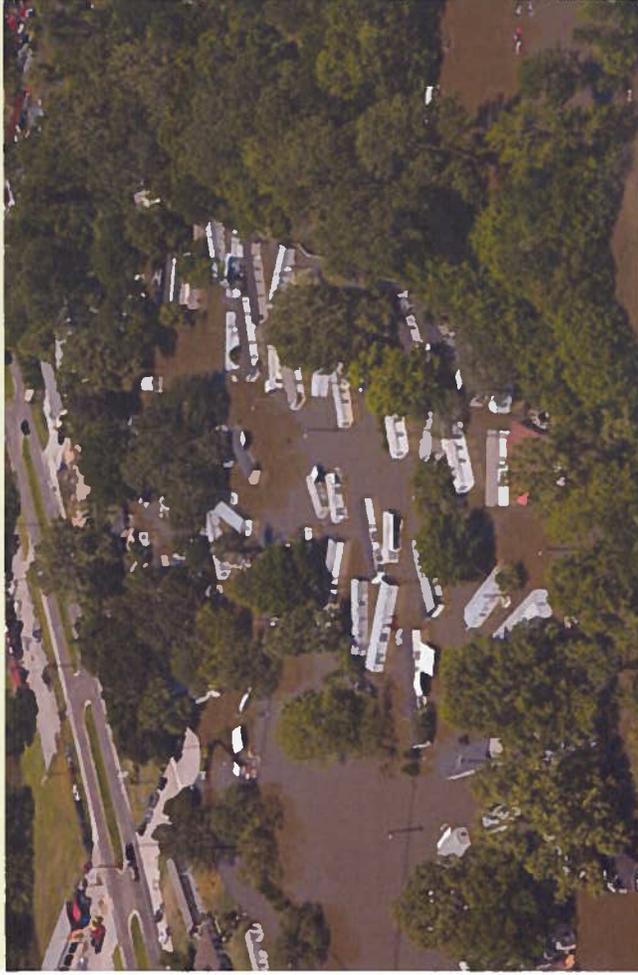
**Heating in the pipeline**



# Effects of Climate Change

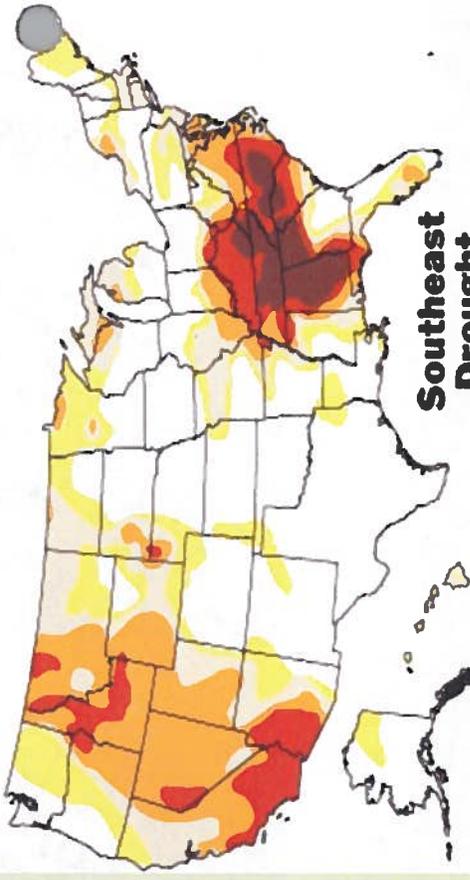


# Increase in frequency/severity of storms



KEY DROUGHT INTENSITY

Abnormally dry Moderate Severe Extreme Exceptional



**Southeast Drought**

Source: NOAA's U.S. Drought Monitor

# Rising Sea Level

## Sea Level

Data updated 2.23.11

**GROUND DATA: 1870-2000**

Credit: CSIRO

**RATE OF CHANGE**

**↑1.70 mm per yr\***



**SATELLITE DATA: 1993-PRESENT**

**↑3.27 mm per yr\***

Data source: Satellite sea level observations.

Credit: CLS/Cnes/Legos



Sea levels have risen 6.7 inches in the past 100 years (the rate of sea level change has *doubled* in the past decade)

Conservative estimates predict Sea level rise this century to be between **1.5-6.5 feet** (0.5-2 meters)

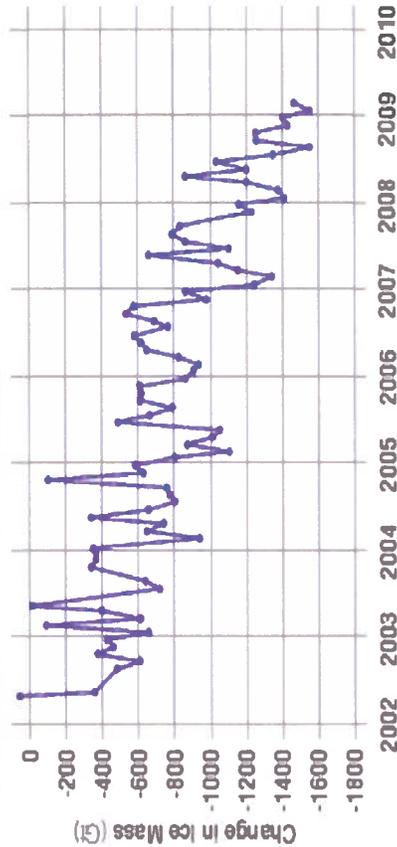
# Ice Sheets are Melting

## Land Ice

Data updated 2/23/11

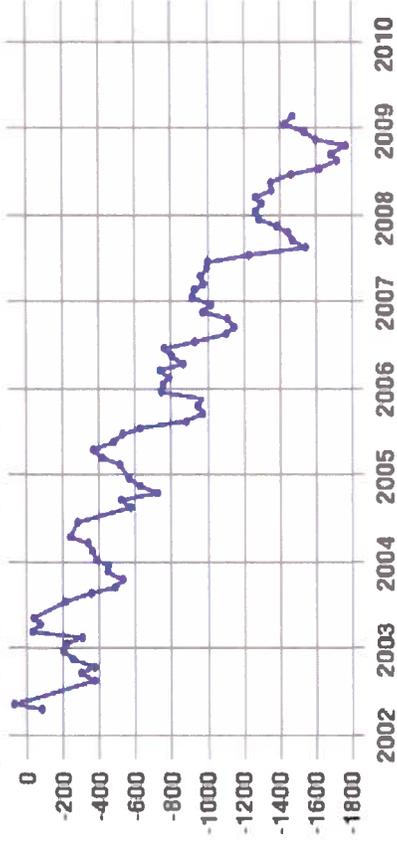
### ANTARCTICA MASS VARIATION SINCE 2002

Data source: Ice mass measurement by NASA's Grace satellites.  
Credit: NASA/University of California, Irvine



### GREENLAND MASS VARIATION SINCE 2002

Data source: Ice mass measurement by NASA's Grace satellites.  
Credit: NASA/University of California, Irvine

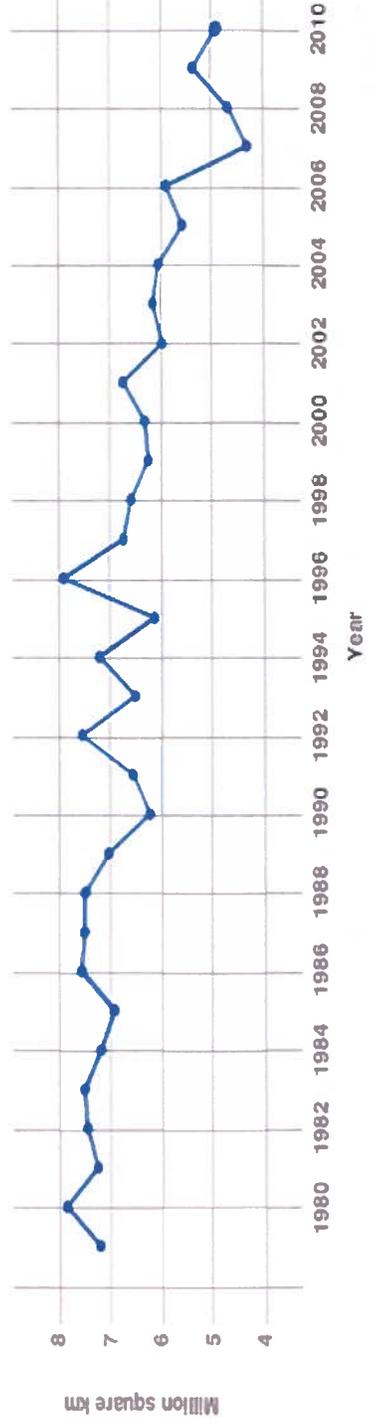


## Arctic Sea Ice

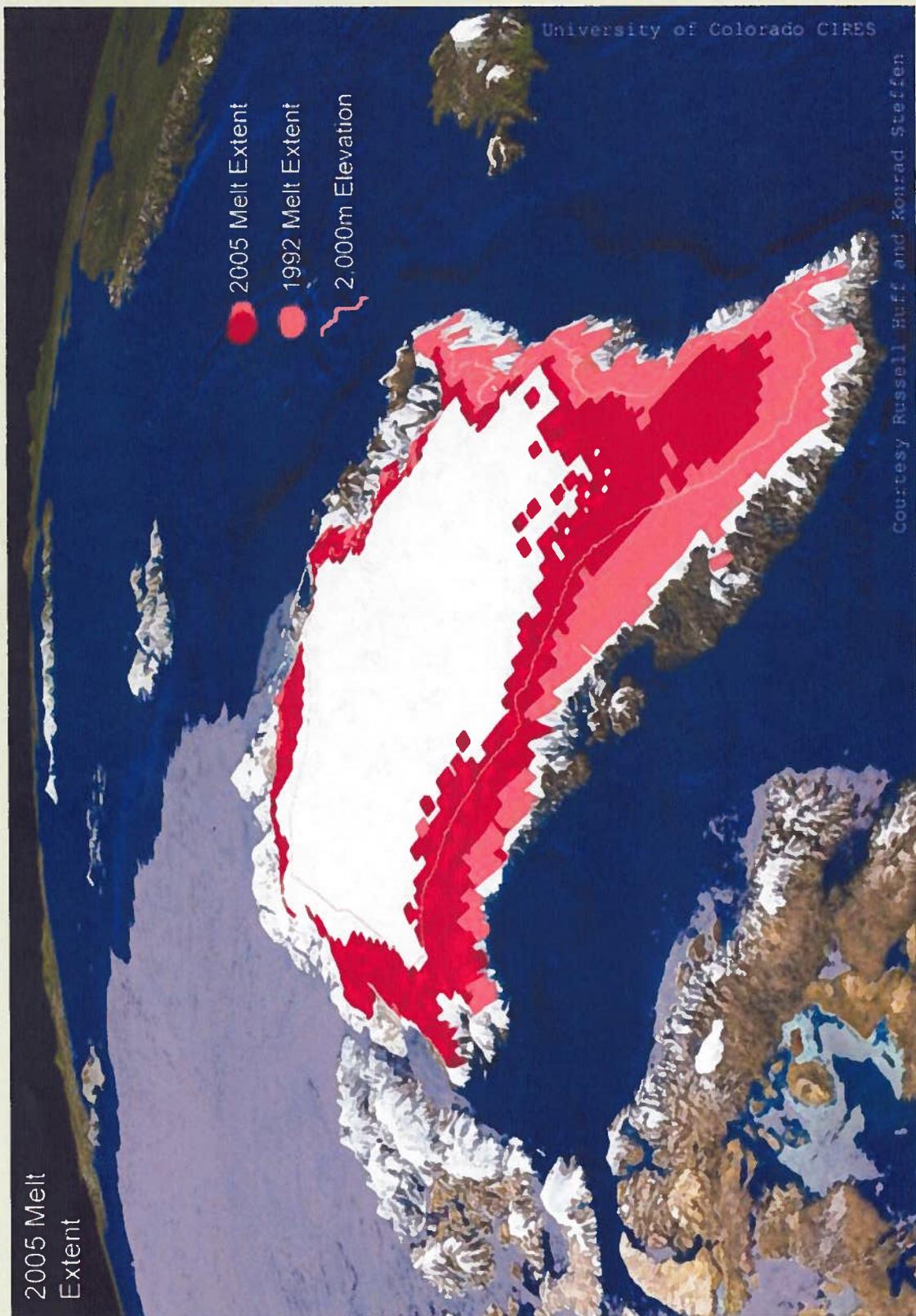
Data updated 2/23/11

### AVERAGE SEPTEMBER EXTENT

Data source: Satellite observations  
Credit: NSIDC

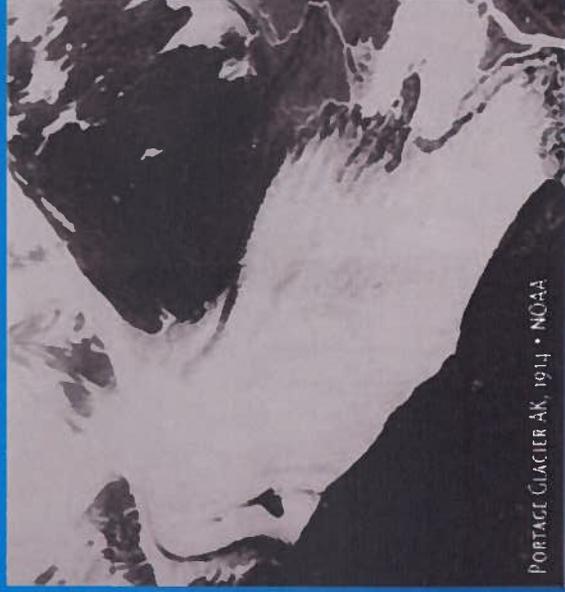
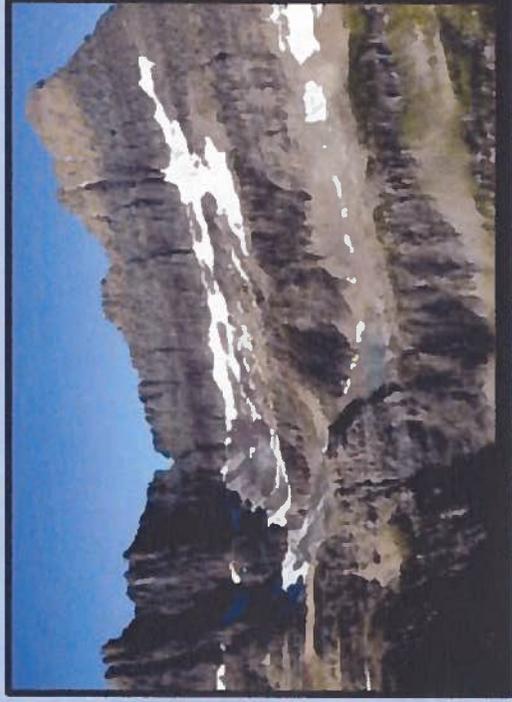
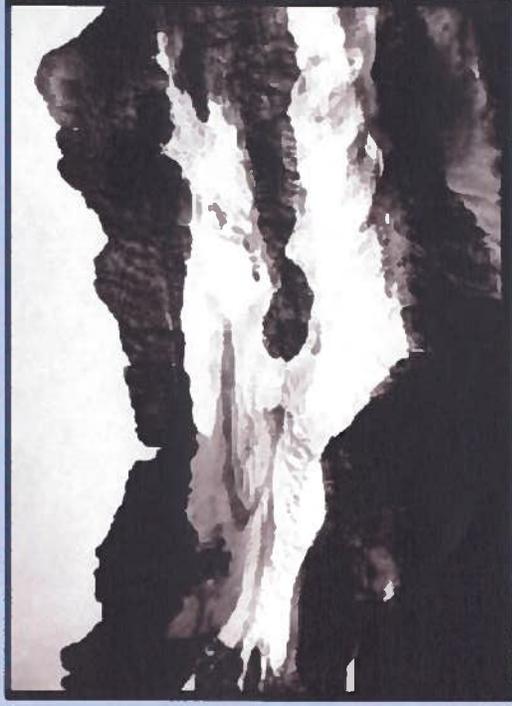


# Greenland Ice Sheet in Retreat

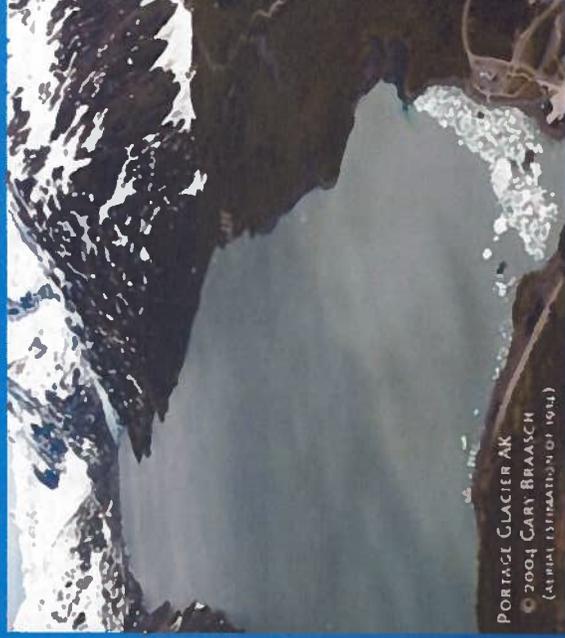


# Mountain Glaciers in Retreat

Figure 2. Shepard Glacier, Glacier National Park, MT in 1913 and 2005



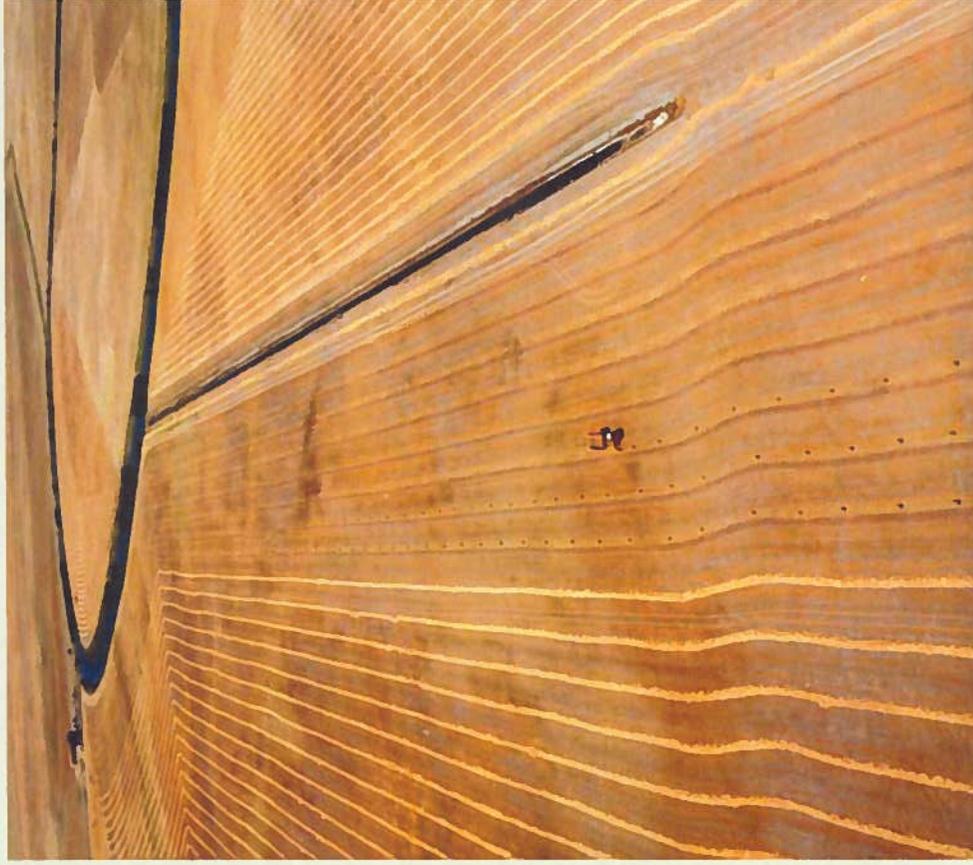
PORTAGE GLACIER, AK, 1914 • NOAA



PORTAGE GLACIER, AK  
© 2004 GARY BRAASCH  
(AERIAL ESTIMATION OF 1914)

Right:  
Portage Glacier, Alaska  
in 1914 and 2004

# Water Shortages

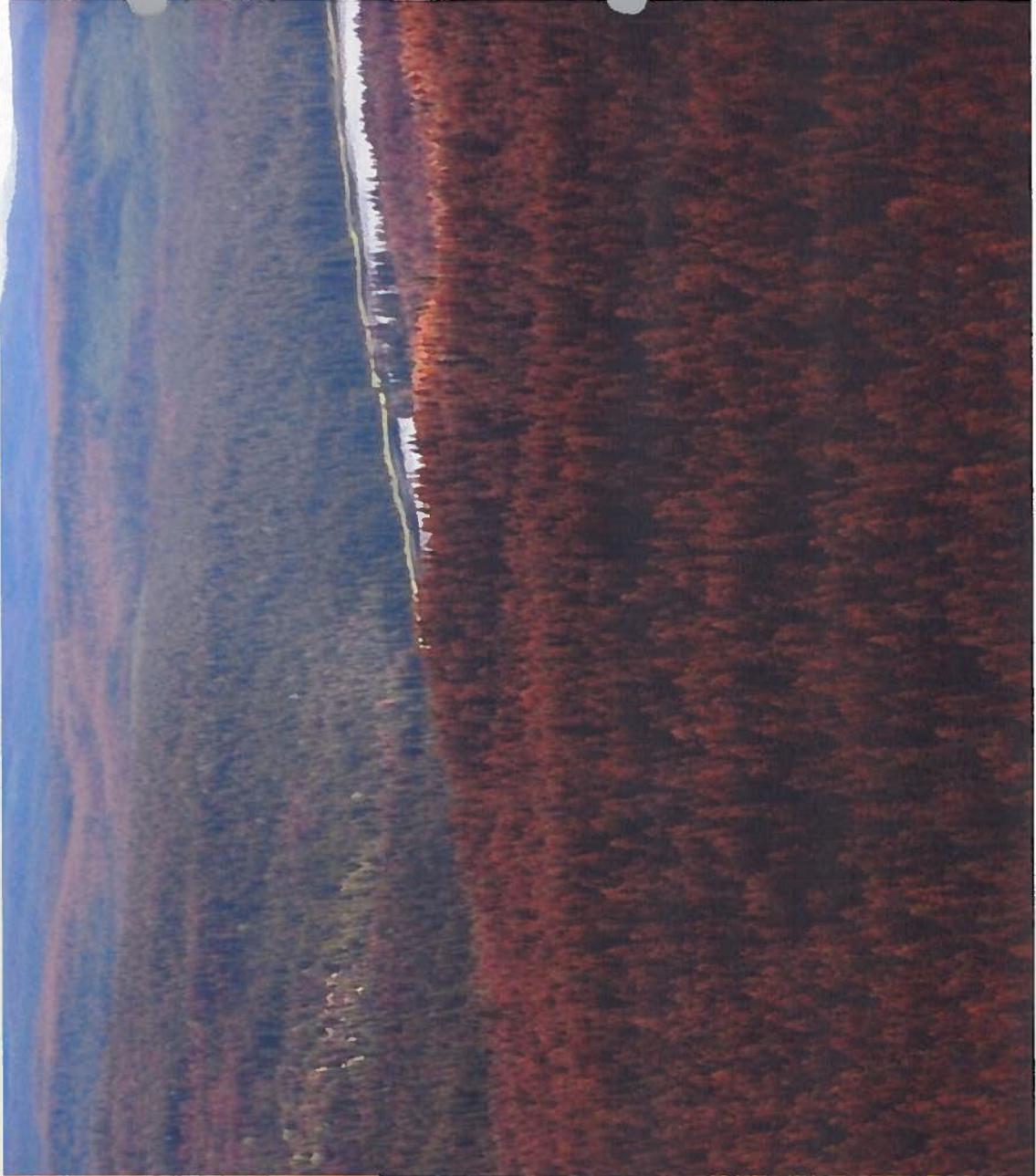


A third of the world's population will face water shortages with a temperature rise of 2.7 – 3.6° F (1.5 – 2° C) – UN IPCC Fourth Assessment, 2007

The oceans are acidifying –  
killing coral reefs and shellfish

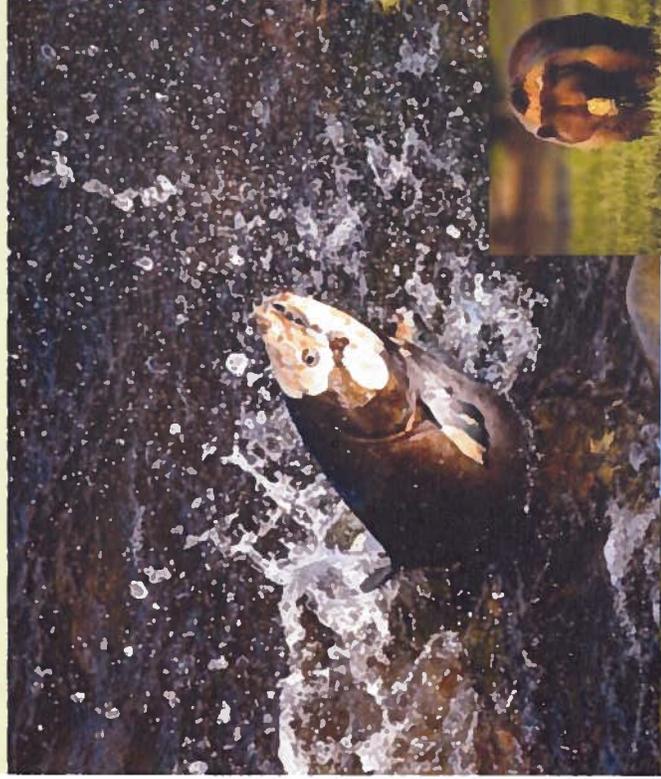


# Forests Under Attack



# The Sixth Planetary Extinction

Up to **30% of plant and animal species** are threatened with extinction if temperatures rise **2.7 – 3.6° F (1.5 – 2° C)** – UN IPCC Fourth Assessment, 2007



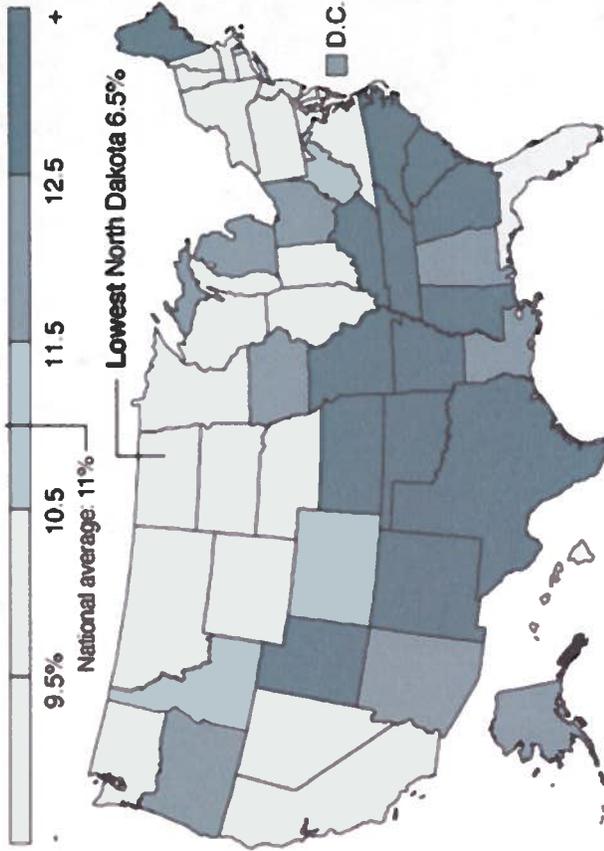
# Food Security



## Limited access to food

At 17.4 percent, Mississippi had the highest average rate of food insecurity in the past three years.

Percentage of households that were food insecure, average, 2005-07



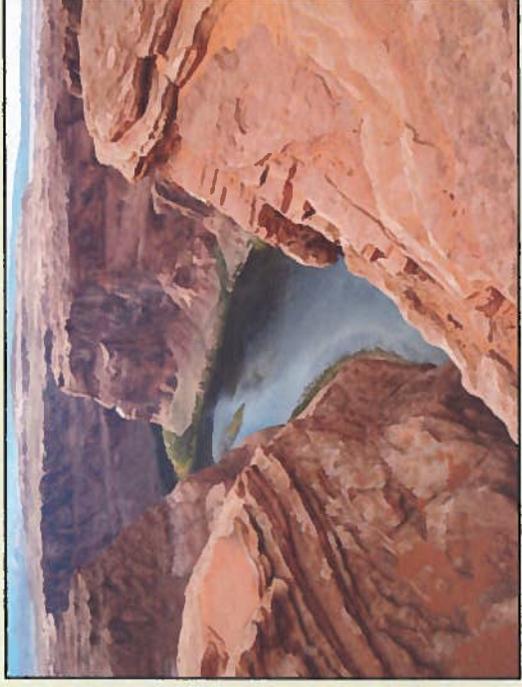
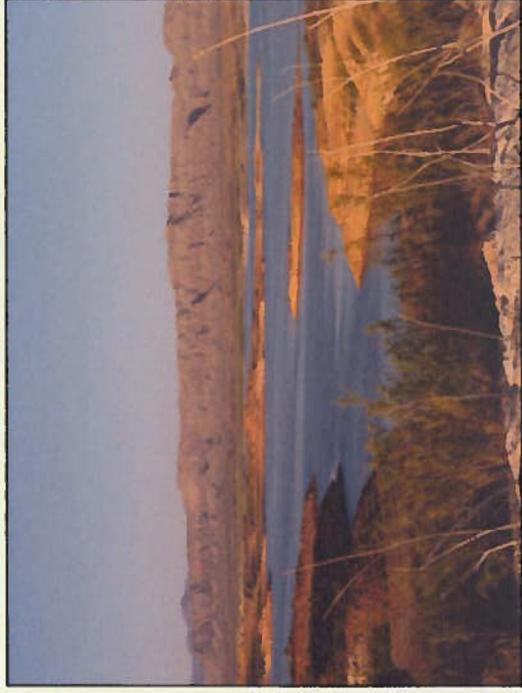
NOTE: Food insecurity means people did not always have access to enough food for an active, healthy life.

SOURCE: U.S. Department of Agriculture

AP

# Climate Change and Nevada

One of the most serious and immediate threats to Nevada is loss of water resources.



In the next 20 years, Lake Mead will be dry, and the Colorado River will experience severe seasonal drying.

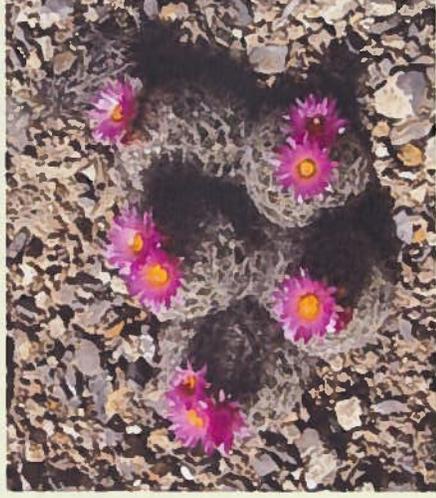
# Some Endangered Species in Nevada are already existing at the edge of high temperature tolerance.



The Nevada State Animal: Desert Bighorn Sheep cr: Tangledwing



Least Bell's Vireo cr: J.C. Avise



Foxtail Cactus cr:APlantADay



Desert Tortoise cr: USMC

# Threats to Human Health

- Burning fossil fuels and climate change poses numerous health threats such as:
  - Increased rates of asthma, cancer, cardiovascular disease, stroke, heat-related deaths, food-borne diseases
  - Increases in deaths due to floods, storms, fires, droughts
  - Increase in malnutrition with implications for child growth and development
  - Diseases, such as malaria and dengue fever, are expected to expand their range

Present human-induced global warming is most significant because:

1. Past changes in climate occurred **before human civilization** existed
2. Global warming today is **happening faster** than at any previous time, leaving little time to adapt
3. Most importantly, today's climate change is **human induced** which means that by changing our activities **we can mitigate impacts**

The youth deserve better. They have a profound interest in ensuring that the climate remains stable and that their governments protect their right to a livable future.



The youth are standing up to protect their right to a healthy and livable planet.





The U.S. is responsible for 30% of the world's carbon emissions. Every county, every state, every city, every person must reduce its carbon output.



“Avoiding dangerous climate change ... is practically and economically achievable.”

– Jeffrey Sachs

# Prescription for climate stability

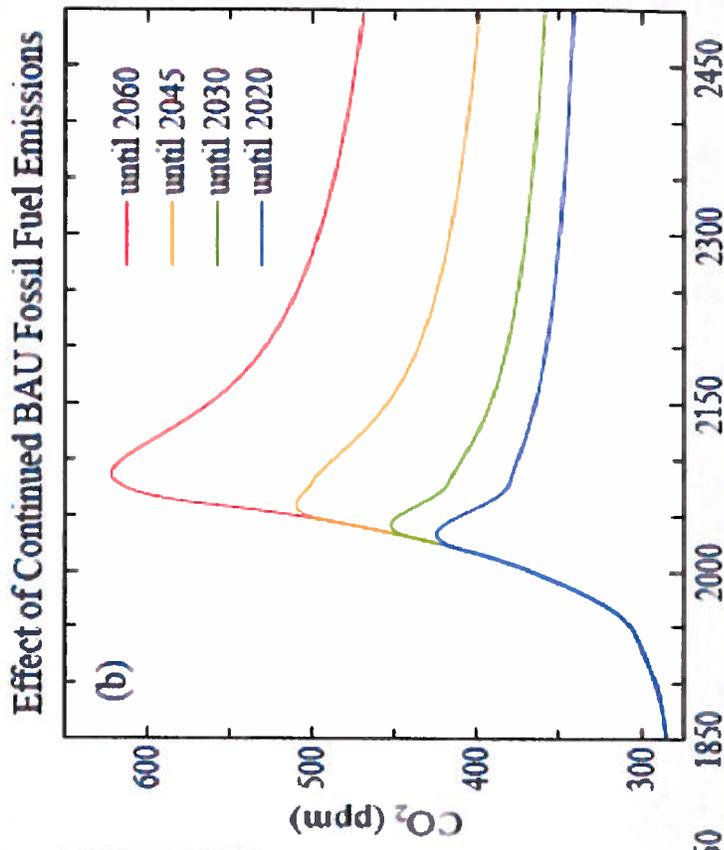
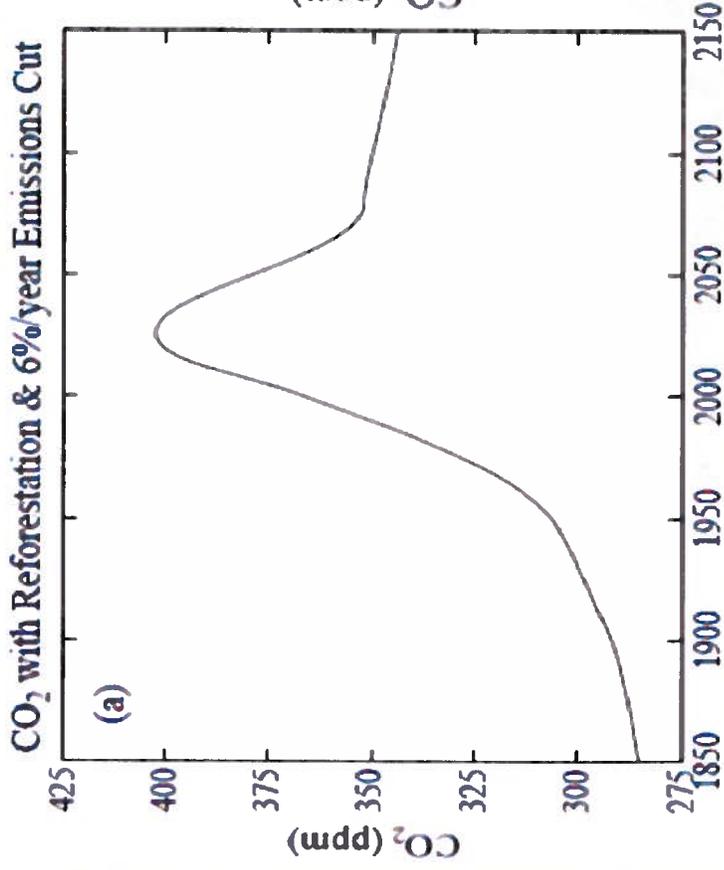
- Humans have caused a planetary imbalance of one-half watt (Earth is absorbing more energy than it emits back to space)
  - To increase Earth's heat radiation by one-half watt we need to reduce CO<sub>2</sub> levels to 350 ppm (currently 390 ppm)
- To protect Earth's natural systems global temperature must not rise more than 1° C by the end of the century
  - Need to reduce CO<sub>2</sub> levels to 350 ppm to prevent more than 1° C of heating

# Prescription for climate stability

- The good news is that CO<sub>2</sub> levels will drop if we stop or greatly reduce CO<sub>2</sub> emissions
- Reforestation and improved agriculture practices can play a role in lowering CO<sub>2</sub> levels
- Because carbon can linger in the atmosphere for 1000 years, we need to act *immediately* to avoid causing irreparable harm to future generations

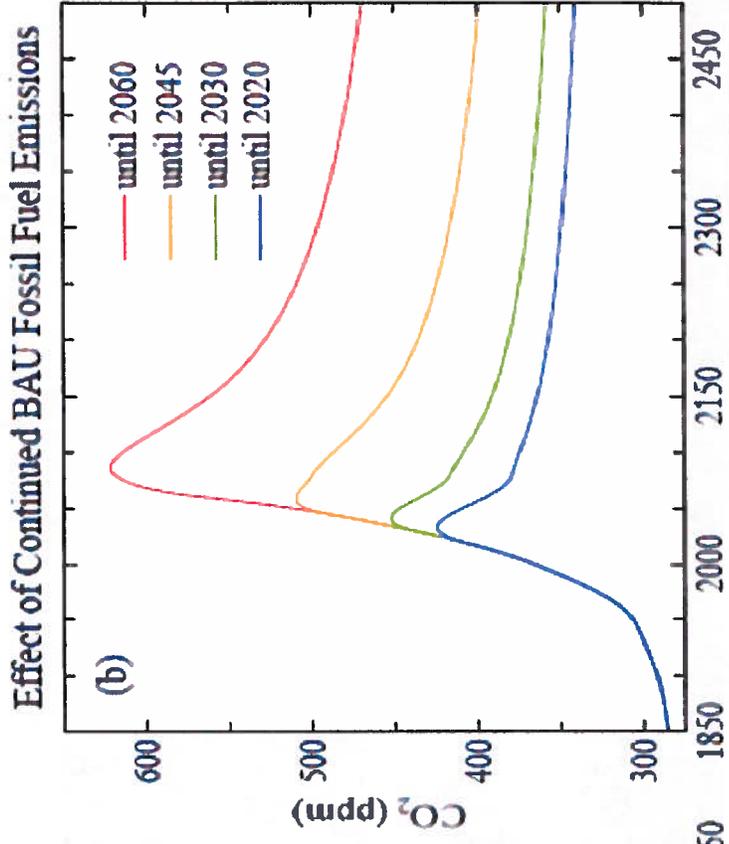
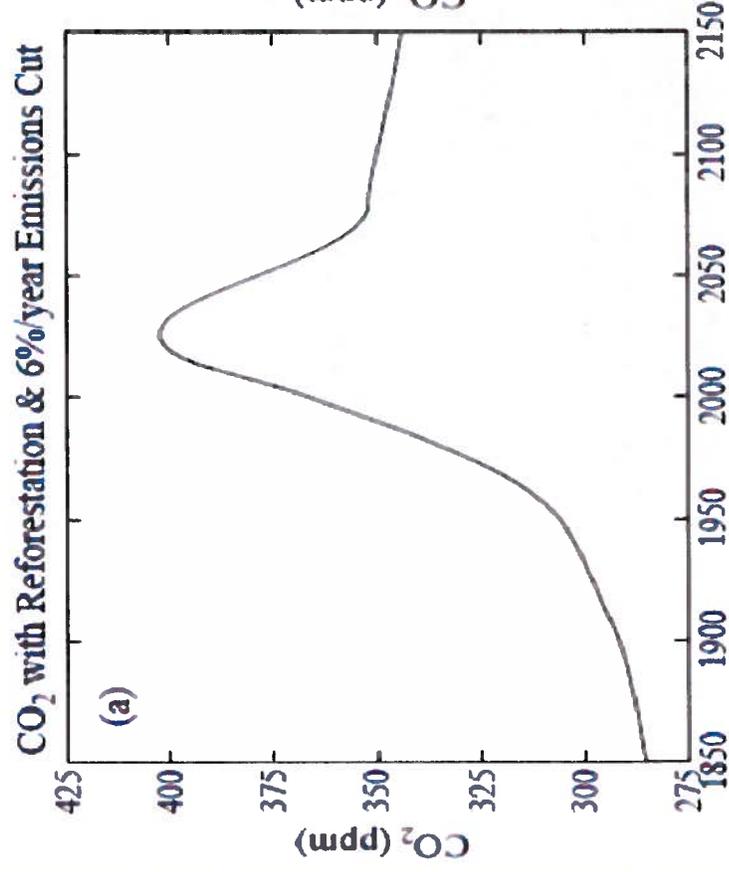
# Prescription for climate stability

To reduce CO<sub>2</sub> concentration to 350 ppm, emissions must peak in 2012 and then decline by 6% a year to result in zero carbon emissions by 2050



# Prescription for climate stability

CO<sub>2</sub> emissions can be eliminated in 30-50 years with technologies that are now available or will be in the foreseeable future at a reasonable cost



# Ways to reach a renewable energy system

- Set a national cap on fossil fuel use that slowly declines to zero emissions by 2050
- Implement a slowly rising carbon tax and use the money to invest in zero-CO<sub>2</sub> emissions
- Impose stricter efficiency standards for building and motor vehicles
- Ban new coal-fired plants
- More money for research and development in alternative sources of clean energy
- Energy Conservation

# CO<sub>2</sub> Reduction is Technologically

## Feasible

- Emissions reductions at power plants through a shift to non-carbon energy sources (wind, solar, hydro), smart grid and storage technologies
- High mileage automobiles (100+ miles)
- Improved building insulation, efficient appliances and light bulbs
- Reduce tropical deforestation
- Direct air capture and sequestration of CO<sub>2</sub>

# CO<sub>2</sub> Reduction is Economically

## Feasible

- Eliminating fossil fuel subsidies would save billions annually
- Reducing CO<sub>2</sub> emissions will save billions of dollars and 1000s of lives by reducing health care costs and reducing the incidences of costly and deadly extreme weather events
- Clean energy will create new jobs and generate tax revenues

# The Public Trust Doctrine: A Public Property Right

1. The government is trustee of natural assets
2. Present and future citizens are beneficiaries of natural assets
3. Government has a firm fiduciary obligation to protect natural assets for future generations



**Atmospheric Trust  
Obligation:  
The Authority to Act**

# **The Atmosphere is Part of the Trust**

- 1. The atmosphere is a trust asset, one of the most important given that it is vital for life on Earth**
- 2. Sovereign nations and states are co-tenant trustees**
- 3. Our youth and all citizens are beneficiaries and have a right to a healthy planet**
- 4. The government has a fiduciary obligation to protect this trust**
- 5. Duty to prevent Waste**

# The Duty

- Government's fiduciary duty is defined by scientists prescriptions for returning the earth's energy balance and avoiding heating above 1 degree Celsius
- Government needs to quickly reduce CO2 emissions on an annual basis on track with returning to 350 ppm by the end of the century
- Prescription=Peak CO2 emissions by 2012; Reduce CO2 emissions by at least 6% per year; Return to 350 ppm by 2100.

The eyes of the future are looking back at us and they are praying for us to see beyond our own time.

-Terry Tempest Williams

**The time to act is now. The youth are counting on us.**



